

IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLES ACT 2015

BROOKFIELD INFRASTRUCTURE PARTNERS ICAV

AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS

INSTRUMENT OF INCORPORATION

(AS AMENDED BY WRITTEN RESOLUTION DATED 27 SEPTEMBER 2017)

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PART A

1. The name of the ICAV is BROOKFIELD INFRASTRUCTURE PARTNERS ICAV.
2. The ICAV is an Irish collective asset-management vehicle established pursuant to the ICAV Act, the sole object of which is the collective investment of its funds in property and giving Members the benefit of the results of the management of its funds.
3. For the purposes of achieving the sole object in Clause 2 above, the ICAV shall have, subject to applicable law, full and unlimited capacity to carry on and undertake any business or activity, do any act or enter into any transaction and, for such purposes, shall have full rights, powers and privileges and shall also have without limitation the following powers:
 - (a) to carry on the business of an Irish collective asset-management vehicle and for that purpose to acquire and hold either in the name of the ICAV, or in that of any nominee, shares, stocks, debentures, debenture stock, bonds, notes, obligations securities and financial derivative instruments issued or guaranteed by any company wherever incorporated or carrying on business and debenture stock, bonds, notes, obligations and securities issued or guaranteed by any government, sovereign ruler, commissioners, public body or authority supreme, dependent, municipal, local or otherwise in any part of the world;
 - (b) to acquire any such shares, stock, debentures, debenture stock, bonds, notes, obligations or securities by original subscription, contract, tender, purchase, exchange, underwriting, participation in syndicates or otherwise, and whether or not fully paid up, and whether or not payment is to be made at the time of issue or on a delayed delivery basis and to subscribe for the same, subject to such terms and conditions (if any) as may be thought fit;
 - (c) to employ, utilise or invest in derivative instruments and techniques of all kinds for investment and efficient portfolio management purposes and, in particular and without prejudice to the generality of the foregoing, to enter into, accept, issue and otherwise deal with sale and repurchase agreements, futures contracts, options, securities lending agreements, short sales agreements, when-issued, delayed delivery and forward commitment agreements, foreign currency spot and forward rate exchange contracts, forward rate agreements, swaps, collars, floors and caps and other foreign exchange or interest rate hedging and investment arrangements and to secure any obligations or liabilities thereunder by providing collateral or margin (whether by way of security interest, outright title transfer or margin payment);

- (d) to purchase for the account of a Sub-Fund by subscription or transfer for consideration, shares of any series representing another Sub-Fund of the ICAV, subject to the provisions of the ICAV Act and the conditions from time to time laid down by the Central Bank;
- (e) to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock obligations or other securities;
- (f) to sell or dispose of the undertaking of the ICAV or any part thereof for such consideration as the ICAV may think fit and, in particular, for shares, debentures, or securities of any other company;
- (g) to carry on the business of an Irish collective asset-management vehicle and to invest the funds of the ICAV in or upon or otherwise acquire, hold and deal in securities and investments of every kind;
- (h) to make, draw, accept, endorse, issue, discount, and otherwise deal with promissory notes, bills of exchange, cheques, letters of credit, and other notes;
- (i) to acquire by purchase, exchange, lease, fee farm grant or otherwise, either for an estate in fee simple or for any less estate or other estate or interest, whether immediate or reversionary, and whether vested or contingent, any lands, tenements or hereditaments of any tenure, whether subject or not to any charges or encumbrances which are essential for the direct pursuit of its business;
- (j) to undertake the office of administrator, committee, manager, secretary, registrar, attorney, delegate, substitute or treasurer and to perform and discharge the duties and functions incident thereto;
- (k) to facilitate and encourage the creation, issue or conversion of debentures, debenture stock, bonds, obligations, shares, stocks and securities, and to act as trustees in connection with any such securities and to take part in the conversion of business concerns and undertakings into companies;
- (l) to constitute any trusts with a view to the issue of preferred and deferred or any other special stocks or securities based on or representing any shares, stocks or other assets specifically appropriated for the purposes of any such trust, and to settle and regulate, and if thought fit, to undertake and execute any such trusts, and to issue, dispose of or hold any such preferred, deferred or other special stocks or securities;
- (m) to enter into partnership or into any arrangement for sharing profits, union of interest, joint venture, reciprocal concession, cooperation or otherwise with any company carrying on, or engaged in, any business or transaction which the ICAV is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the ICAV and to take or otherwise acquire and hold shares or stock in or securities of any such company, to assist any such company, and to sell, hold, or otherwise deal with such shares, stock or securities;
- (n) to promote any company for the purpose of acquiring all or any of the property or liabilities of the ICAV, or of undertaking any business or operations which may appear likely to assist or benefit the ICAV or to enhance the value of or render more profitable any property, assets or business of the ICAV, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV and to

establish subsidiary companies or other legal structures for any of the foregoing purposes;

- (o) to accumulate capital for any of the purposes of the ICAV, and to appropriate any of the ICAV's assets to specific purposes, either conditionally or unconditionally and to admit any series or section of those who have any dealings with the ICAV to any share in the profits thereof or in the profits of any particular branch of the ICAV's business, or to any other special rights, privileges, advantages or benefits;
- (p) to enter into any arrangements with any government or authority, supreme, municipal, local or otherwise, or company that may seem conducive to the ICAV's objects or any of them, and to obtain from any such government, authority or company, any charters, contracts, decrees, rights, privileges and concessions, and to carry out, exercise and comply with any such arrangements, charters, contracts, decrees, rights, privileges and concessions;
- (q) to borrow or raise or secure the payment of money in such manner as the ICAV shall think fit, and, in particular (but without prejudice to the generality of the foregoing), by the issue of debentures, debenture stocks, bonds, obligations and securities of all kinds, either perpetual or terminable and either redeemable or otherwise and to secure the repayment of any money borrowed, raised or owing by trust deed, mortgage, charge, or lien upon the whole or any part of the ICAV's undertaking, property or assets (whether present or future) including its uncalled capital, and also by a similar trust deed, mortgage, charge or lien to secure and guarantee the performance by the ICAV of any obligation or liability it may undertake;
- (r) to guarantee, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (both present and future) and uncalled capital of the ICAV, or by indemnity or undertaking, or by any one or more of such methods, the performance of the obligations of, and the repayment or payment of the principal amounts of and premiums, interest and dividends on any security, indebtedness or obligations of the ICAV;
- (s) to create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the ICAV, or for any other purpose of the ICAV;
- (t) to distribute either upon a distribution of assets or division of profits among the members of the ICAV in kind any property of the ICAV, and, in particular, any shares, debentures or securities of other companies belonging to the ICAV or of which the ICAV may have the power of disposing;
- (u) to remunerate any person, firm or company rendering services to the ICAV, whether by cash payment or by the allotment of shares or securities of the ICAV credited as paid up in full or in part or otherwise;
- (v) to procure the ICAV to be registered or recognised in any foreign country, dependency or place;
- (w) to the extent permitted by law to obtain and hold, either alone or jointly with any person or company, insurance cover in respect of any risk of the ICAV, its directors, officers, employees and agents;
- (x) to pay all or any expenses of, incidental to, or incurred in connection with,

the formation and incorporation of the ICAV and the raising of its share and loan capital, or to contract with any person or company to pay the same, and (subject in the case of shares to the provisions of any statute for the time being in force) to pay commissions to brokers and others for underwriting, placing, selling or guaranteeing the subscription of any shares, debentures or securities of the ICAV;

- (y) to do all or any of the above things in any part of the world, whether as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, subcontractors or otherwise and either alone or in partnership or conjunction with any person or company, and to contract for the carrying on of any operation connected with the ICAV's business by any person or company;
- (z) to amalgamate any Sub-Fund with any other fund of a collective investment scheme including any other Sub-Fund (the "**Transferee Fund**"), subject to the requirements of the Central Bank, and in doing so to dispose of the assets of the Sub-Fund to the Transferee Fund in consideration for the issue of shares in the Transferee Fund to the Members *pro rata* to their shareholding in the Sub-Fund; and
- (aa) to do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

Each of the powers of the ICAV (whether enumerated or not) is to be interpreted and exercised as ancillary to the main object but separate from and ranking equally to any other power.

It is hereby declared that in the construction of this Clause the word "company" shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Ireland or elsewhere, and words denoting the singular number only shall include the plural number and vice versa and the intention is that the powers specified in each paragraph of this Clause shall, except where otherwise expressed in such paragraph, be in no way restricted by reference to or inference from the terms of any other paragraph or the name of the ICAV.

- 4. The liability of the members is limited to the amount, if any, unpaid on the shares respectively held by them subject and without prejudice to any other liability to which a member may be subject as provided by or under the ICAV Act.
- 5. The issued share capital of the ICAV shall be not less than the currency equivalent of €2.00 represented by two subscriber shares of no par value and the maximum issued share capital of the ICAV shall be not more than 500 billion shares of no par value. The share capital of the ICAV shall be at all times equal to the value for the time being of the issued share capital of the ICAV. The actual value of the paid up share capital of the ICAV shall be at all times equal to the value of the assets of the ICAV after the deduction of its liabilities.

PART B
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1. DEFINITIONS

The following words shall bear the meanings set opposite to them unless inconsistent with the subject or context:-

“Accounting Period”	a fiscal period of the ICAV ending on such date as may be determined by the Directors from time to time;
“address”	includes any number or address used for the purposes of communication by way of electronic mail or other Electronic Communications;
“Administrator”	any person, firm or corporation appointed and for the time being acting as administrator of the assets of the ICAV in accordance with the requirements of the Central Bank;
“Advanced Electronic Signature”	has the meaning given in the Electronic Commerce Act, 2000;
“Affiliate”	with respect to a person, any other person that either directly or indirectly controls, is controlled by or is under common control with the first person;
“AIF”	an alternative investment fund within the meaning of AIFMD;
“AIFM”	an alternative investment fund manager within the meaning of AIFMD;
“AIFMD”	means Directive 2011/61/EU on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1069/2009 and (EU) No 1095/2010 (“Level 1”), as supplemented by Commission Delegated Regulations (EU) No. 231/2013 of 19 December 2012 (“Level 2”) and implemented in Ireland pursuant to the European Union (Alternative Investment Fund Managers) Regulations 2013, as such may be amended, supplemented or replaced from time to time;
“AIF Rulebook”	the rulebook published by the Central Bank which sets out the operating conditions and rules applicable to AIFMs, depositaries, administrator, AIF management companies, and AIFs under AIFMD (including any amendments or updates made in relation thereto);
“AIFM Delegated Regulation”	Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012;
“AIFMD Regulations”	the European Union (Alternative Investment Fund Managers) Regulations 2013, as may be amended from time to time;

“Annual Report”	a report prepared in accordance with Clause 34 hereof;
“Associated Company”	any corporation which in relation to the person concerned (being a corporation) is a holding company or a subsidiary of any such holding company of a corporation (or a subsidiary of a corporation) at least one-fifth of the issued equity share capital of which is beneficially owned by the person concerned or an associate thereof under the preceding part of this definition. Where the person concerned is an individual or firm or other unincorporated body the expression “Associated Company” shall mean and include any corporation directly or indirectly controlled by such person;
“Auditors”	the auditors for the time being of the ICAV;
“Base Currency”	the base currency of the ICAV or a Sub-Fund, as may be specified in the Prospectus or the applicable Supplement;
“Board”	the board of directors of the ICAV including any committee of the Board;
“Business Day”	has the meaning ascribed to it in the Prospectus;
“Capital Call”	any capital call made by the ICAV to request payment for shares pursuant to a Capital Commitment;
“Capital Commitment”	an amount committed to the ICAV by a Member of the ICAV as set forth in a commitment letter, a subscription agreement to which such Member is party or equivalent agreement;
“Central Bank”	the Central Bank of Ireland or any successor regulatory authority with responsibility for the authorisation and supervision of the ICAV;
“Clear Days”	in relation to the period of a notice, that period excluding the day on which the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;
“Commission”	such amount or amounts payable on the issue or redemption of shares in the ICAV as may be specified in the Prospectus (including, without limitation, any anti-dilution levy, subscription or redemption charge) and which may be deducted from the subscription or redemption monies;
“Companies Act”	the Companies Act 2014, as may be amended, supplemented or replaced from time to time;
“Dealing Day”	has the meaning ascribed to it in the Prospectus;
“Defaulting Member”	a Member who fails to pay a Capital Call by its due date;

“Depositary”	any person, firm or corporation appointed and for the time being acting as depositary of any of the assets of the ICAV in accordance with the Rules;
“Depositary Agreement”	any agreement for the time being subsisting between the ICAV and any Depositary relating to the appointment and duties of such Depositary;
“Director”	any director of the ICAV for the time being;
“Duties and Charges”	all stamp and other duties, taxes, governmental charges, brokerage fees, bank charges, transfer fees, registration fees and other duties and charges arising in connection with any transaction or dealing in any assets of the ICAV but shall not include any commission charges or costs which may have been taken into account in ascertaining the value of the Net Assets;
“Electronic Communication”	has the meaning given to that expression in the Electronic Commerce Act, 2000;
“Electronic Proxy Scheme”	any scheme established by the ICAV whereby electronic means may be used by Members to appoint a proxy;
“Electronic Signature”	has the meaning given to that expression in the Electronic Commerce Act, 2000;
“EU”	the European Union;
“€”	the unit of the single European currency;
“Final Redemption Day”	the date determined by the Directors, upon which all of the issued and outstanding shares of any Sub-Fund will be redeemed, as provided for in respect of such Sub-Fund in the Prospectus;
“ICAV Act”	the Irish Collective Asset-management Vehicles Act 2015;
“ICAV”	Brookfield Infrastructure Partners ICAV, an Irish collective asset-management vehicle incorporated under the ICAV Act;
“Initial Offer Period”	the period during which shares of any series are offered by the ICAV for purchase or subscription at the Initial Offer Price;
“Initial Offer Price”	the price at which any shares of any series are first offered for purchase or subscription;

“Instrument of Incorporation”	this document, as may be amended or modified from time to time in accordance with the rules set out herein;
“Investment”	any of the investments of the ICAV or a Sub-Fund as authorised by the Instrument of Incorporation and more particularly set out in the Prospectus;
“Investment Manager”	any person, firm or corporation appointed and for the time being acting as investment manager and adviser in respect of the ICAV;
“in writing”	written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing or partly one and partly another;
“Knowledgeable Employee”	<p>means an investor who has satisfied the following conditions:</p> <ul style="list-style-type: none"> (a) the investor is the AIFM or any entity appointed to provide investment management or advisory services to the ICAV; (b) the investor is a director of the AIFM or of any entity appointed to provide investment management or advisory services to the ICAV; or (c) the investor is an employee of the AIFM or any other entity appointed to provide investment management or advisory services to the ICAV, where such employee is either (i) directly involved in the investment activities of the ICAV or (ii) is a senior employee of the AIFM or of any entity appointed to provide investment management or advisory services to the ICAV and has experience in the provision of investment management services (and the AIFM is satisfied that the investor falls within these criteria); and who certifies in writing to the ICAV that: <ul style="list-style-type: none"> (i) the investor is availing of the exemption from the minimum initial subscription requirement of €100,000 on the basis that they are a “Knowledgeable Employee” as defined above; (ii) the investor is aware that each Sub-Fund is normally marketed solely to Qualifying Investors who are subject to a minimum initial subscription of €100,000; (iii) the investor is aware of the risk involved in the proposed investment; and (iv) the investor is aware that inherent in such investment is the potential to lose all of the sum invested;
“Member or Shareholder”	a person who is registered as the holder of shares in the Register of Members;

“Member State”	a member state of the EU;
“Minimum Capital Commitment”	the minimum amount of money required to be committed by a Member of the ICAV as set out in the Prospectus, provided that it shall not be less than the minimum subscription amount prescribed by the Central Bank from time to time;
“Minimum Holding”	a holding of shares in any Sub-Fund the value of which by reference to the redemption price or the number of shares is not less than such minimum amount, if any, as may be determined by the Directors from time to time and subject to any minimum holding prescribed by the Central Bank from time to time;
“Month”	a calendar month;
“Net Assets”	the net assets of the ICAV as determined pursuant to Clauses 17 and 18 hereof;
“Net Asset Value”	the amount determined for any particular Valuation Date pursuant to Clauses 17 and 18 hereof;
“Officer”	any Director of the ICAV or the Secretary;
“Ordinary Resolution”	an ordinary resolution of the ICAV, a Sub-Fund or of any series of shares in the ICAV or a Sub-Fund, as appropriate, passed in accordance with the ICAV Act;
“Preliminary Expenses”	the preliminary expenses incurred in the establishment of the ICAV and a Sub-Fund, the obtaining by the ICAV and a Sub-Fund of a registration order and authorisation from the Central Bank under the ICAV Act, the registration of the ICAV and a Sub-Fund with any other regulatory authority and each offer of shares to the public (including the costs of preparing and publishing the Prospectus and translating the Prospectus into other languages) and may include any costs or expenses (whether incurred directly by the ICAV or not) incurred in connection with any subsequent application for a listing or quotation of any of the shares in the ICAV on a stock exchange or regulated market;
“Prospectus”	the prospectus to be issued by the ICAV (as may be amended or supplemented from time to time) in connection with the authorisation of the ICAV as a designated umbrella investment company with segregated liability between sub-funds by the Central Bank and the initial public offer for its Shares. For the avoidance of doubt, references to the Prospectus shall also include reference to any Supplemental Prospectus issued in respect of any Sub-Fund.

“Qualifying Investor”

means:

- (a) an investor who is a professional client within the meaning of Annex II of MiFID; or
- (b) an investor who receives an appraisal from an EU credit institution, a MiFID firm or a UCITS management company that the investor has the appropriate expertise, experience and knowledge to adequately understand the investment in the ICAV; or
- (c) an investor who certifies that they are an informed investor by providing the following:
 - (i) confirmation (in writing) that the investor has such knowledge of and experience in financial and business matters as would enable the investor to properly evaluate the merits and risks of the prospective investment; or
 - (ii) confirmation (in writing) that the investor’s business involves, whether for its own account or the account of others, the management, acquisition or disposal of property of the same kind as the property of the ICAV.

Within the EU, Qualifying Investor AIFs may only be marketed to professional investors as defined in the AIFMD unless the Member State in question permits, under the laws of that Member State, AIFs to be sold to other categories of investors and this permission encompasses investors set out in categories (b) and (c) above.

“Qualifying Investor AIF”

an alternative investment fund authorised by the Central Bank which may be marketed to investors who meet the criteria set out in the Qualifying Investor AIF chapter of the AIF Rulebook;

“Register of Directors’ Holdings”

the register in which the Directors’ holdings are listed;

“Register of Members”

the register in which are listed the names of Members of the ICAV;

“Rules”

any rules or conditions from time to time made by the Central Bank pursuant to Section 27 of the ICAV Act and the AIFMD Regulations;

“Secretary”	any person, firm or corporation appointed by the Directors to perform the duties of the secretary of the ICAV and who may be one of the Directors;
“Series” or “series”	any series (or class) of shares from time to time created by the ICAV, details of which shall be set out in the Prospectus;
“Series Currency”	the currency of denomination of a series;
“Share” or “shares” or “Participating Share”	any series of share or shares in the ICAV or a Sub-Fund representing an interest in the ICAV or a Sub-Fund;
“Signed”	includes a signature or representation of a signature affixed by mechanical or other means;
“Special Resolution”	a special resolution of the ICAV, a Sub-Fund or of any series of shares in the ICAV or a Sub-Fund, as appropriate, passed in accordance with the ICAV Act;
“Sub-Fund”	any fund from time to time established pursuant to Clause 5 and which may comprise one or more series of shares in the ICAV;
“Sub-Investment Manager”	any trading manager or advisor appointed by the Investment Manager to act as investment manager to a Sub-Fund or any part thereof;
“Subscriber Shares”	the shares which the subscribers to the Instrument of Incorporation agree to subscribe for as more particularly hereinafter set forth after their names;
“Subsidiary”	any subsidiary within the meaning of Section 2 of the ICAV Act;
“Supplement” or “Supplemental Prospectus”	a supplemental prospectus issued in respect of any Sub-Fund which contains information relating to a particular Sub-Fund;
“Third Country”	a country other than a Member State;
“UK”	the United Kingdom of Great Britain and Northern Ireland;
“Valuation Date”	<p>in respect of each Sub-Fund, such day or days as the Directors may from time to time determine provided that:</p> <ul style="list-style-type: none"> (i) a Valuation Date shall be on such Business Days as shall be set out in the Prospectus or such other Business Days as shall be determined by the Board and notified to Members; (ii) in the event of any change in a Valuation Date reasonable notice thereof shall be given by the Directors to each Member of the relevant Sub-Fund at such time and in such manner

as the Depositary may approve;

- (ii) the assets of the Sub-Fund shall be valued on each Valuation Date; and
- (iii) there shall be at least one Valuation Date per year;

“Valuation Point”

such time as the Directors from time to time may determine for each Sub-Fund as provided for in the Prospectus.

- (a) Reference to enactments and to articles and sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force.
- (b) Unless repugnant to the context:-
 - (i) words importing the singular number shall include the plural number and *vice versa*;
 - (ii) words importing the masculine gender only shall include the feminine gender;
 - (iii) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
 - (iv) the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative;
 - (v) expressions in this Instrument of Incorporation referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and any other modes of representing or reproducing words in a visible form provided, however, that it shall not include writing in electronic form except as provided in this Instrument of Incorporation and/or where it constitutes writing in electronic form sent to the ICAV, the ICAV has agreed to its receipt in such form. Expressions in this Instrument of Incorporation referring to execution of any document shall include any mode of execution under seal or under hand or any mode of Electronic Signature as shall be approved by the Directors. Expressions in this Instrument of Incorporation referring to receipt of any Electronic Communication shall, unless the contrary intention appears, be limited to receipt in such manner as the ICAV has agreed to;
 - (vi) unless the contrary intention appears, the use of the word “address” in this Instrument of Incorporation in relation to Electronic Communications includes any number or address used for the purpose of such communications; and
 - (vii) unless otherwise expressly stated to the contrary herein, any reference to any Clause or Sub-Clause or Schedule in Part B of this Instrument of Incorporation is to a Clause or Sub-Clause or Schedule (as the case may be) of this Part B of this Instrument of Incorporation.

2. PRELIMINARY

- (a) Subject to the provisions of the ICAV Act, the business of the ICAV shall be commenced as soon after the incorporation of the ICAV as the Directors think fit.
- (b) The Preliminary Expenses shall be payable by the ICAV or the Sub-Fund to which they relate unless discharged by any other party, and if payable by the ICAV or a Sub-Fund, any amount so payable may be carried forward in the accounts of the ICAV and amortised in such manner and over such a period as the Directors may at any time and from time to time determine to lengthen or shorten.
- (c) The ICAV shall also bear the following fees and expenses, save to the extent that such fees and expenses may be waived or otherwise discharged by any other person and not recovered from the ICAV:-
 - (i) all taxes and expenses which may be incurred in connection with the acquisition and disposal of the assets of the ICAV;
 - (ii) all taxes which may be payable on the assets, income and expenses chargeable to the ICAV;
 - (iii) all brokerage, bank and other charges incurred by the ICAV in relation to its business transactions;
 - (iv) all fees and expenses due to the Auditors, the AIFM, the Depositary, the Administrator, any Investment Manager or adviser, any sub-custodian of the ICAV, the legal advisers to the ICAV, any valuer, dealer, distributor or other supplier of services to the ICAV;
 - (v) all expenses incurred in connection with publication and supply of information to the Members and, in particular, without prejudice to the generality of the foregoing, the cost of printing and distributing the Annual Report, any report to the Central Bank or any other regulatory authority, any other report and any Prospectus and all costs incurred in translating any of the foregoing into any languages other than English and the costs of publishing quotations of prices and notices in the financial press and the costs of obtaining a rating for the shares of the ICAV and the Sub-Funds from a rating agency and all stationery, printing and postage costs in connection with the preparation and distribution of cheques, warrants, tax certificates and statements;
 - (vi) all expenses incurred in the registration of the ICAV with any government agencies or regulatory authority in any jurisdiction where registration is available or necessary and in having the shares of the ICAV listed or dealt on any stock exchange or any regulated market and in having the shares of the ICAV rated by any rating agency;
 - (vii) all expenses arising in respect of legal or administrative proceedings;
 - (viii) all expenses incurred in connection with the operation and management of the ICAV, including, without limitation to the generality of the foregoing, all Directors' fees and costs, all costs incurred in organising Directors' and Members' meetings and in obtaining proxies in relation to such meetings, all insurance premiums and association membership dues and all non-recurring and extraordinary items of expenditure as may arise;

- (ix) all expenses incurred in the termination of any Sub-Fund or the liquidation or winding-up of the ICAV; and
 - (x) any other similar expenses related to the ICAV and the Sub-Funds, as the Directors reasonably determine.
- (d) At the absolute discretion of the Directors and in accordance with the requirements of the Central Bank, fees and expenses may be charged first against current income, then should this not suffice, against realised capital gains and, if need be, against assets. Notwithstanding the above, the fees and expenses of a Sub-Fund (or a portion thereof) may be charged to capital where this policy is disclosed in the Prospectus for the Sub-Fund.

3. **DEPOSITARY, ADMINISTRATOR, INVESTMENT MANAGER AND AIFM**

- (a) The ICAV shall forthwith after its incorporation and before the issue of any shares (other than the Subscriber Shares) appoint:-
- (i) a person, firm or corporation to act as Depositary and shall entrust the assets of the ICAV to the Depositary for safe keeping;
 - (ii) a person, firm or corporation to act as AIFM of the ICAV (which may be the same entity as the Investment Manager), provided that the ICAV may determine that it shall be an internally-managed AIF, in which case the ICAV shall be the AIFM; and
 - (iii) a person, firm or corporation to act as Administrator of the ICAV, or shall procure that the AIFM shall appoint a person, firm or corporation to act as Administrator of the ICAV.

The AIFM may also appoint a person, firm or corporation to act as Investment Manager to the ICAV or any Sub-Fund thereof (and the Investment Manager may, in turn, appoint any Sub-Investment Manager) and the Directors may entrust to and confer upon the AIFM, the Investment Manager and any Sub-Investment Manager so appointed any of the powers, duties, discretions and/or functions exercisable by them as Directors, upon such terms and conditions, including the right to remuneration payable by the ICAV or AIFM, and with such powers of delegation and such restrictions as they think fit.

- (b) The terms of appointment of any Depositary may authorise such Depositary to appoint (with powers of sub-delegation) sub-custodians, nominees, agents or delegates at the expense of the Depositary or otherwise and to delegate any of its functions and duties to any person or persons so appointed, provided that such appointment shall first have been notified to the ICAV and is in accordance with the requirements of the Central Bank and provided further that any such appointment insofar as it relates to an appointment in relation to the assets of the ICAV shall terminate forthwith on termination of the appointment of the Depositary. For the avoidance of doubt the Depositary may not delegate the performance of any of its fiduciary duties or discretions and its liability shall not be affected by the fact that it has entrusted to a third party some or all of the assets in its safe-keeping save that the Depositary may discharge itself of liability in accordance with, and subject to, the conditions set out in the AIFMD Regulations, including without limitation Regulation 22(13) and Regulation 22(14) and, if applicable, the Depositary Agreement.

- (c) The terms of appointment of any Administrator may authorise such service providers, subject to the approval of the Central Bank, to appoint one or more sub-managers, administrators, transfer agents or other agents at their own expense and to delegate any of their functions and duties to any person or persons so appointed, provided that such appointment or appointments shall first have been approved by the ICAV and provided further that any such appointment shall terminate forthwith on termination of the appointment of the Administrator.
- (d) With the approval of the Central Bank, the appointment of the AIFM may be terminated by the ICAV and a replacement AIFM may be appointed and the terms of appointment of an AIFM from time to time may be varied and the ICAV may authorise such AIFM to appoint one or more investment managers, investment advisers or other agents, delegates or service providers and to delegate any of its functions and duties to any person or persons so appointed, provided that such appointment or appointments shall first have been approved by the ICAV and are otherwise in accordance with the AIFMD Regulations and provided further that any such appointment shall terminate forthwith on termination of the appointment of the AIFM by the ICAV. Where the AIFM appoints an Investment Manager, the foregoing provisions shall apply *mutatis mutandis*.
- (e) The terms of appointment of an AIFM will require that the AIFM make available such information as may be required pursuant to the AIFMD Regulations to be made available to prospective Members. The maximum annual fee payable to the AIFM and/or the Investment Manager out of the assets of a Sub-Fund shall not be increased without the approval of at least 75 per cent of the votes cast in person or by proxy at a general meeting, where there is no opportunity for Members to redeem or otherwise exit the relevant Sub-Fund, or without the approval of at least 50 per cent of the votes cast in person or by proxy at a general meeting, where there is an opportunity for Members to redeem or otherwise exit the relevant Sub-Fund, or such other means of approval as may be agreed with the Central Bank and in accordance with the requirements of the Central Bank.
- (f) The appointment of the Depositary, the Administrator, the Investment Manager and the AIFM shall in each case be subject to the approval of the Central Bank and the agreements appointing the Depositary, the Administrator, the Investment Manager and the AIFM in each case shall be in accordance with the requirements of the Central Bank. The Central Bank may at its discretion have the power to replace the Depositary and/or the AIFM with another Depositary and/or AIFM, as the case may be, at any time. Replacement of the Depositary and/or the AIFM is subject to the prior approval of the Central Bank. Replacement of the Administrator and/or the Investment Manager must be made in accordance with the requirements of the Central Bank.
- (g) In the event of the Depositary desiring to retire or being removed from office the ICAV shall use its reasonable endeavours to find a corporation willing to act as Depositary who must be approved by the Central Bank to act as Depositary and upon so doing the ICAV shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary Agreement shall provide that the Depositary may not retire or be removed from office until the ICAV appoints a replacement Depositary or until the authorisation of the ICAV by the Central Bank has been revoked.
- (h) If within the notice period set out in any agreement between the ICAV and the Depositary from the date on which the Depositary notifies the ICAV of its desire to retire, or from the date on which the Depositary ceases to be approved by the Central Bank no replacement Depositary shall have been appointed, the Directors may resolve to repurchase all of the shares in issue or the Secretary, at the request of the Directors or the Depositary, shall

forthwith convene an extraordinary general meeting of the ICAV at which there shall be proposed a resolution to wind up the ICAV and if a resolution is passed to wind up the ICAV in accordance with Part 11 of the Companies Act, as modified by the ICAV Act, the liquidator shall distribute the assets of the ICAV in accordance with the provisions of Clause 37 hereof but in any event the appointment of the Depositary shall not be terminated until the authorisation of the ICAV has been revoked by the Central Bank.

- (i) In the event of the AIFM desiring to retire or being removed from office or ceasing to be authorised as an AIFM, the ICAV shall use reasonable endeavours to find an entity willing to act as AIFM who must be authorised and approved by the Central Bank to act as AIFM and upon doing so the ICAV shall appoint such entity to be AIFM in place of the former AIFM.
- (j) If within the notice period set out in any agreement between the ICAV and the AIFM (or such other reasonable period as may be determined by the Directors) from the date on which the AIFM notifies the ICAV of its desire to retire, or from the date on which the AIFM ceases to be approved to act as such, no replacement AIFM shall have been appointed and the ICAV is not capable of acting as an internally-managed AIF, the Directors may resolve to repurchase all of the shares in issue and/or the Secretary, at the request of the Directors, shall forthwith convene an extraordinary general meeting of the ICAV, at which there shall be proposed a resolution to wind up the ICAV and if a resolution is passed to wind up the ICAV in accordance with Part 11 of the Companies Act, as modified by the ICAV Act, the assets of the ICAV shall be distributed in accordance with the provisions of Clause 37 hereof.
- (k) The ICAV or the AIFM on behalf of the ICAV may use the services of a prime broker, the terms of which shall be set out in a written contract. Such contract may provide for the possibility of the transfer and re-use of the assets of the ICAV.
- (l) The ICAV may appoint any person, firm or company, including without limitation, the AIFM, the Investment Manager, as an authorised signatory of the ICAV (the "Authorised Signatory") and, in connection therewith, the Authorised Signatory may be granted the power and authority to execute and deliver for and in the name of the ICAV and any Sub-Fund any contracts, agreements, certificates, applications and other documents and instruments as are determined by the Authorised Signatory to be necessary, appropriate or advisable to carry out the Authorised Signatory's functions under any agreement with the ICAV for and in the name of the ICAV and the Sub-Funds.

4. SHARE CAPITAL

- (a) The paid up share capital of the ICAV shall at all times be equal to the Net Asset Value of the ICAV as determined in accordance with Clauses 17 and 18 hereof.
- (b) The issued share capital of the ICAV shall not be less than the currency equivalent of €2.00 represented by two subscriber shares of no par value and the maximum issued share capital of the ICAV shall not be more than 500 billion shares of no par value.
- (c) The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to allot or issue shares in the ICAV pursuant to section 38 of the ICAV Act. The maximum amount of shares which may be allotted or issued under the authority hereby conferred shall be 500 billion shares of no par value, provided, however, that any shares which have been redeemed shall be deemed never to have been issued for the purpose of calculating the maximum amount of shares which may be issued.

- (d) The Directors may delegate to the Administrator or to any duly authorised Officer or other person, the duties of accepting the subscription for, receiving payment for and allotting or issuing new shares.
- (e) The Directors in their absolute discretion may refuse to accept any application for shares in the ICAV or may accept any application in whole or in part.
- (f) No person shall be recognised by the ICAV as holding any shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any shares or (except only as otherwise provided herein or as by law may be required) any other right in respect of any share, except an absolute right of title thereto in the registered holder.
- (g) At any time after the issue of shares, and subject to applicable law, the ICAV shall be entitled to redeem the Subscriber Shares or to procure the transfer of the Subscriber Shares to any person who may be a qualified holder of shares in accordance with Clause 12 hereof.
- (h) The ICAV may from time to time by Ordinary Resolution increase its capital by such number of shares as the resolution shall prescribe.
- (i) In addition to any rights of the ICAV specifically conferred by this Instrument of Incorporation to reduce its share capital, the ICAV may, by Special Resolution, from time to time reduce its share capital in any way and, in particular, without prejudice to the generality of the foregoing power, may with or without extinguishing or reducing liability on any of its shares:-
 - (i) cancel any paid up share capital which is lost or which is not represented by available assets; or
 - (ii) pay off any paid up share capital which is in excess of the requirements of the ICAV.
- (j) The ICAV may by Ordinary Resolution from time to time alter (without reducing it) its share capital by:
 - (i) consolidating and dividing all or any of its share capital into a smaller number of shares than its existing shares;
 - (ii) sub-dividing its shares, or any of them, into a larger number of shares; or
 - (iii) cancelling any shares which, at the date of the passing of the Ordinary Resolution in that behalf have not been taken, or agreed to be taken, by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

5. THE SUB-FUNDS, SERIES AND SEGREGATED LIABILITY

- (a) The ICAV is an umbrella fund with segregated liability between Sub-Funds and each Sub-Fund may be comprised of one or more series of shares in the ICAV. With the approval of the Central Bank, the Directors from time to time may establish additional Sub-Funds by the issue of one or more separate series of shares on such terms as the Directors may resolve. Certain Sub-Funds may be established as closed-ended Sub-Funds, limited liquidity Sub-Funds or open-ended Sub-Funds, as specified in the Prospectus and subject to the conditions set down by the Central Bank. The ICAV may establish series which may be differentiated on the basis of Series Currency,

subscription/redemption procedures, distribution policies or charging structure, hedging policies or other criteria disclosed in the Prospectus. The creation of further series in a Sub-Fund must be effected in accordance with the requirements of the Central Bank.

- (b) Shares may be issued with such voting rights and rights to participate in or receive profits or income arising from the acquisition, holding, management or disposal of assets of a Sub-Fund or of the ICAV as the Directors from time to time may determine and set forth in the Prospectus. The Directors may restrict the voting rights attaching to any series of shares. In particular, and without prejudice to the generality of the foregoing, the Directors may issue one or more series of shares the voting rights of which shall be restricted on the basis that the holders shall be precluded from voting in respect of any Ordinary Resolution and any Special Resolution **PROVIDED THAT** any such resolution shall not become effective unless the holders have been provided with a certain number of days' notice of the date on which the particular resolution is to be effected as is set forth in the Prospectus. The decision to subscribe for any series of shares in respect of which the voting rights are restricted is made solely by the investor.
- (c) Where permitted in the circumstances described in the Prospectus, the Directors are hereby authorised from time to time to re-designate any existing series of shares in the ICAV and merge such series of shares with any other series of shares in the ICAV, **PROVIDED THAT** Members in such series are first notified by the ICAV and given the opportunity to have the shares redeemed. With the prior consent of the Directors, Members may convert shares in one series of shares into shares of another series in the ICAV in accordance with the provisions of Clause 10 hereof.
- (d) For the purpose of enabling shares of one series to be re-designated or converted into shares of another series, the ICAV may take such action as may be necessary to vary or abrogate the rights attached to shares of one series to be converted so that such rights are replaced by the rights attached to the other series into which the shares of the original series are to be converted.
- (e) The records and accounts of each Sub-Fund shall be maintained separately and the assets and liabilities of each Sub-Fund shall be allocated in the following manner:-
 - (i) the proceeds from the issue of shares representing a Sub-Fund shall be applied in the books and records of the ICAV to that Sub-Fund, and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Sub-Fund subject to the provisions of this Clause. The assets of a Sub-Fund shall belong exclusively to that Sub-Fund and shall not be used to discharge directly or indirectly the liabilities or claims against any other Sub-Fund and shall not be available for such purposes nor shall any Member have any interest in the assets of a Sub-Fund;
 - (ii) where any asset is derived from another asset, such derivative asset shall be applied in the books and records of the ICAV to the same Sub-Fund as the assets from which it was derived and in each valuation of an asset, the increase or diminution in value shall be applied to the relevant Sub-Fund;
 - (iii) where the ICAV incurs a liability which relates to any asset of a particular Sub-Fund or to any action taken in connection with an asset of a particular Sub-Fund, such a liability shall be allocated to the relevant Sub-Fund; and
 - (iv) where an asset or a liability of the ICAV cannot be considered as being attributable to a particular Sub-Fund, such asset or liability, subject to the approval of the Depositary, shall be allocated to all the Sub-Funds *pro rata* to

the Net Asset Value of each Sub-Fund or in accordance with any other reasonable basis determined by the ICAV in consultation with the Administrator and approved by the Depositary having taken into account the nature of the asset or liability;

PROVIDED THAT when issuing a series of shares in regard to any Sub-Fund, the Directors may allocate Commission, Duties and Charges and ongoing expenses on a basis which is different from that which applies in the case of shares in other series in the Sub-Fund.

- (f) Notwithstanding any enactment or rule of law to the contrary, any liability incurred on behalf of or attributable to any Sub-Fund shall be discharged solely out of the assets of that Sub-Fund, and neither the ICAV nor any Director, receiver, liquidator, provisional liquidator or other person shall apply, nor be obliged to apply, the assets of any such Sub-Fund in satisfaction of any liability incurred on behalf of, or attributable to, any other Sub-Fund.
- (g) There shall be implied in every contract, agreement, arrangement or transaction entered into by the ICAV (whether acting in its own capacity or on behalf of a particular Sub-Fund or Sub-Funds) the following terms, that:-
 - (i) the party or parties contracting with the ICAV shall not seek, whether in any proceedings or by any other means whatsoever or wheresoever, to have recourse to any assets of any Sub-Fund in the discharge of all or any part of a liability which was not incurred on behalf of that Sub-Fund;
 - (ii) if any party contracting with the ICAV shall succeed by any means whatsoever or wheresoever in having recourse to any assets of any Sub-Fund in the discharge of all or any part of a liability which was not incurred on behalf of that Sub-Fund, that party shall be liable to the ICAV to pay a sum equal to the value of the benefit thereby obtained by it; and
 - (iii) if any party contracting with the ICAV shall succeed in seizing or attaching by any means, or otherwise levying execution against any assets of a Sub-Fund in respect of a liability which was not incurred on behalf of that Sub-Fund, that party shall hold those assets or the direct or indirect proceeds of the sale of such assets on trust for the ICAV and shall keep those assets or proceeds separate and identifiable as such trust property.
- (h) All sums recoverable by the ICAV as a result of any such trust as is described in Clause 5(g)(iii) shall be credited against any concurrent liability pursuant to the implied terms set out in Clause 5(g).
- (i) Any asset or sum recovered by the ICAV pursuant to the implied terms set out in Clause 5(g) or by any other means whatsoever or wheresoever in the events referred to in Clause 5(g) shall, after the deduction or payment of any costs of recovery, be applied so as to compensate the Sub-Fund affected.
- (j) In the event that assets attributable to a Sub-Fund are taken in execution of a liability not attributable to that Sub-Fund, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to that Sub-Fund affected, the Directors, with the consent of the Depositary, shall certify or cause to be certified, the value of the assets lost to the Sub-Fund affected and transfer or pay from the assets of the Sub-Fund or Sub-Funds to which the liability was attributable, in priority to all other claims against

such Sub-Fund or Sub-Funds, assets or sums sufficient to restore to the Sub-Fund affected, the value of the assets or sums lost to it.

- (k) A Sub-Fund is not a legal person separate from the ICAV but the ICAV may sue and be sued in respect of a particular Sub-Fund and may exercise the same rights of set-off, if any, as between its Sub-Funds as apply at law in respect of an Irish collective asset-management vehicle and the property of a Sub-Fund is subject to orders of the court as it would have been if the Sub-Fund were a separate legal person.
- (l) Separate records shall be maintained in respect of each series of shares and each Sub-Fund.

6. ISSUE OF DEBENTURES

- (a) The ICAV may borrow or raise or secure the payment of money in such manner as the ICAV shall think fit, and, in particular (but without prejudice to the generality of the foregoing), by the issue of debentures, debenture stocks, bonds, obligations, loans, notes and securities of all kinds, either perpetual or terminable and either redeemable or otherwise and to secure the repayment of any money borrowed, raised or owing by trust deed, mortgage, charge, or lien upon the whole or any part of the ICAV's undertaking, property or assets (whether present or future) including its uncalled capital, and also by a similar trust deed, mortgage, charge or lien to secure and guarantee the performance by the ICAV of any obligation or liability it may undertake.
- (b) The instrument of transfer of a debenture shall be signed by or on behalf of the transferor and need not be signed by the transferee. The Directors may decline to register any transfer of debentures at their absolute discretion. Without limitation the Directors may decline to register any transfer of debentures unless the instrument of transfer is deposited at the registered office of the ICAV or at such other place as the Directors may reasonably require, with such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.

7. CONFIRMATIONS OF OWNERSHIP AND REGISTERS

- (a) A Member shall have his title to shares evidenced by having his name, address and the number of shares held by him entered in the Register of Members which shall be maintained in the manner required by law. In order for Members to be entered in the Register of Members, the Members must have agreed to make the Minimum Capital Commitment to the ICAV or have applied for or acquired shares (other than Subscriber Shares) to the value of not less than the minimum subscription amount as set out in chapter 2 of the AIF Rulebook and the Supplement and must certify that they meet the Qualifying Investor criteria as set out in that chapter and certify that they are aware of the risks involved in the proposed investment and that inherent in such investment is the potential to lose all of the sum invested.
- (b) A Member whose name appears in the Register of Members at the Member's request shall be entitled to be issued with a written confirmation of ownership representing the number of shares held by him. Whilst the ICAV has the power to issue share certificates, share certificates will generally not be issued, nor will any other documentation be issued, other than the confirmation notices mentioned above. Share certificates shall not be issued. To be entered on the Register of Members, Members must be Qualifying Investors except to the extent the shares are Subscriber Shares.

- (c) If a written confirmation of ownership is damaged or defaced or alleged to have been lost, stolen or destroyed, a new written confirmation of ownership representing the same shares may be issued to the Member upon request subject to delivery up of the old written confirmation of ownership or (if alleged to have been lost, stolen or destroyed) on compliance with such conditions as to evidence and indemnity and the payment of exceptional out-of-pocket expenses of the ICAV in connection with the request as the Directors may think fit.
- (d) The Register of Members may be kept on magnetic tape or in accordance with some other mechanical or electronic system, provided that legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Instrument of Incorporation.
- (e) The Directors shall cause to be entered in the Register of Members, in addition to the particulars required to be so entered by law, the following particulars:-
 - (i) the name and address of each Member (save that in the case of joint holders, the address of the first named holder only need be entered), a statement of the shares of each series held by him distinguishing each share by its number so long as the share has a number, the Sub-Fund and series (if any) of such Sub-Fund to which the share belongs and of any amount paid or agreed to be considered as paid on such shares;
 - (ii) the date on which each person was entered in the Register of Members as a Member; and
 - (iii) the date on which any person ceased to be a Member;

PROVIDED THAT no notice of any trust, express, implied or constructive, shall be entered on the Register of Members.

- (f)
 - (i) The Register of Members shall be kept in such manner as to show at all times the Members of the ICAV for the time being and the shares respectively held by them.
 - (ii) The Register of Members shall be open to inspection at the registered office of the ICAV or at an alternative place notified to the Central Bank as being the place where the Register of Members is kept, provided that such alternative place shall be in Ireland. Each Member shall be entitled to inspect only the entry in the Register of Members relating to that Member.
 - (iii) The ICAV may close the Register of Members for any time or times not exceeding, in total, thirty (30) days in each calendar year.
- (g) The ICAV shall keep the Register of Directors' Holdings in accordance with the provisions of the ICAV Act showing, in relation to each Director and the Secretary of the ICAV, the number, description and amount of any shares in or debentures of:-
 - (i) the ICAV, or
 - (ii) any other body corporate which is the ICAV's subsidiary or holding company, or a subsidiary of the ICAV's holding company,

which are held by, or in trust for, him or her, his or her spouse or any child of his or hers of which he or she has any right to become the holder (whether on payment or not).

- (h) The Register of Directors' Holdings shall be kept at the same office as the Register of Members is kept, and shall be open to inspection during business hours (subject to such reasonable restrictions as the Directors may determine or as the ICAV may in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) by any Member or holder of debentures of the ICAV. The Register of Directors' Holdings shall also be produced at the commencement of the ICAV's annual general meeting (if any) and shall remain open and accessible during the continuance of the meeting to any person attending the meeting.
- (i) The Directors shall not be bound to register more than four persons as the joint holders of any share or shares. In the case of a share held jointly by several persons, the Directors shall not be bound to issue therefor more than one written confirmation of ownership and the issue of a written confirmation of ownership for a share to the first named of several joint holders shall be sufficient delivery to all.
- (j) Where two or more persons are registered as the holders of any shares they shall be deemed to hold the same as joint holders, subject to the following provisions:-
 - (i) the joint holders of any shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such shares;
 - (ii) any one of such joint holders may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;
 - (iii) only the first-named of the joint holders of a share shall be entitled to delivery of the written confirmation of ownership relating to such share or to receive notices from the ICAV to attend general meetings of the ICAV. Any written confirmation of ownership delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
 - (iv) the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
 - (v) for the purpose of the provisions of this Clause, the first-named shall be determined by the order in which the names of the joint holders stand in the Register of Members.
- (k) The ICAV shall not issue bearer certificates, either to first time subscribers in the ICAV or to existing Members in respect of shares already held by such Members.
- (l) The Directors shall also be entitled to charge a Member such fee as the Directors from time to time may determine in respect of the cost of confirmations of ownership.

8. VALUATION DATE

Subject as hereinafter provided, all issues of shares shall be effected or made with effect from any Valuation Date at the price per share obtained on the Valuation Date.

9. ISSUE OF SHARES

(a) Subject as hereinafter provided on receipt by the ICAV of the following:-

- (i) a commitment letter or subscription agreement or any other application for shares in such form as the ICAV from time to time may determine;
- (ii) such declarations as to the applicant's status, residence and otherwise as the ICAV from time to time may require;
- (iii) certification from the applicant that the applicant is a Qualifying Investor and is aware of the risks of investing in the shares; and
- (iv) payment for the shares within a reasonable time and in such manner as the ICAV from time to time may specify in the Prospectus, provided that if the ICAV receives payment for the shares in a currency other than the Base Currency or relevant Series Currency, the ICAV may convert or arrange for the conversion of the monies received into the Base Currency or relevant Series Currency and shall be entitled to deduct therefrom all expenses incurred in the conversion;

the ICAV may issue such shares in such series from time to time created by the ICAV at the relevant Initial Offer Price or at the Net Asset Value for each such share then obtaining unless otherwise specified in the Prospectus (or, at the absolute discretion of the ICAV in the case of (iii) above at the Net Asset Value for each such share on the Valuation Date immediately following the conversion of the monies received into the Base Currency, less Commission or other charge payable, if any) or may allot such shares pending receipt of cleared funds, provided that if cleared funds representing the subscription monies are not received by the ICAV, within such period as the Directors may determine, the Directors may cancel any allotment of shares in respect thereof. The Directors may decline to accept any application for the allotment or issue of shares in whole or in part and may cease to offer shares in the ICAV for allotment or issue for a definite period or otherwise. Shares will be issued on a forward pricing basis, meaning that the deadline for subscription applications shall precede the Valuation Point as more particularly set out in the Prospectus.

- (b) The ICAV shall, subject to the absolute discretion of the Directors, be entitled to receive securities or other investments from an applicant for shares and to sell, dispose of or otherwise convert such securities or investments into cash and to apply such cash (net of any expenses incurred in the conversion) for the purchase of shares in the ICAV in accordance with the provisions hereof.
- (c) Unless otherwise determined by the Directors, no issue of shares shall be made in respect of an application which would result in the applicant holding less than the Minimum Holding, if any.
- (d) Where permitted in the Prospectus or in the relevant Supplement, the Directors shall be entitled to issue fractional shares (hereinafter called "**Fractional Shares**") where the subscription monies received by the ICAV are insufficient to purchase an integral number of shares, provided, however, that Fractional Shares shall not carry any voting rights and provided further that the Net Asset Value of a Fractional Share of any series of shares shall be adjusted by the amount which such Fractional Share bears to an integral share of that series of shares at the time of issue and any dividend payable on such Fractional Shares shall be adjusted in like manner.

- (e) Where permitted in the Prospectus, some Members may obtain preferential treatment from time to time. The AIFM will seek to ensure the fair treatment of Members by adhering to the requirements of this Instrument of Incorporation, the Prospectus and any policies and procedures adopted by the ICAV or the AIFM in relation to the fair treatment of Members. The preferential treatment may apply to any type of Member (including Members who have legal or economic links with the ICAV or the AIFM) and may relate to fees, information rights, redemption rights or other matters. Information on the preferential treatment shall be made available to investors in the Prospectus or by any other means subject to the requirements of the AIFMD Regulations.

10. CONVERSION OF SHARES

Where provided for in, and subject to the terms of, the Prospectus and as hereinafter provided a holder of shares in any Sub-Fund (the “**Original Shares**”) may, with the prior consent of the Directors, from time to time convert all or any portion of such shares (“**Conversion**”) having such minimum value at the time of conversion as may be determined by the Directors from time to time into shares of another Sub-Fund or another series (the “**New Shares**”) either existing or agreed to be brought into existence on terms hereinafter appearing:-

- (i) Conversion may be exercisable by the said holder (hereinafter called the “**Applicant**”) giving a notice (hereinafter called the “**Conversion Notice**”) to the Administrator in such form as the Administrator may require provided that the shareholding satisfies the Minimum Holding or Minimum Capital Commitment criteria, as applicable, and provided that the original application is received within the time limits set out in the Prospectus, and shall be accompanied by such evidence of ownership, succession or assignment satisfactory to the Directors together with unmatured dividend coupons;
- (ii) the Conversion of shares comprised in a Conversion Notice which is delivered to the Administrator following the deadline specified in the Prospectus for a Valuation Date shall be made on the Valuation Date next following the receipt of the Conversion Notice;
- (iii) Conversion of the Original Shares comprised in the Conversion Notice shall be effected by the redemption of such Original Shares (save that the redemption monies shall not be released to the Applicant) and the issue of New Shares, such redemption and issue taking place on the Valuation Date referred to in paragraph (ii) of this Clause;
- (iv) the number of New Shares to be issued on Conversion shall be determined by the Directors in accordance (or as nearly as may be in accordance) with the following formula:-
- (v)

$$NS = \frac{A \times (B - [TC]) \times C}{D}$$

where:

NS = the number of New Shares which will be issued;

A = the number of Original Shares to be converted;

B = the redemption price of the Original Shares to be converted;

C = the currency conversion factor (if any) as determined by the Directors;

D = the issue price of the New Shares on the relevant Valuation Date;
and

TC = the transaction charge incurred in connection with the proposed transaction, which shall not in any event exceed 5 per cent of the Net Asset Value per share.

If NS is not an integral number of shares the Directors reserve the right to issue fractional New Shares or to return the surplus arising to the Member seeking to convert the shares.

- (i) upon Conversion, the ICAV shall cause assets or cash representing the value of NS as defined in (iv) above to be allocated to the series of shares comprising the New Shares.

11. PRICE PER SHARE

- (a) The Initial Offer Price per share at which the shares of any series shall be allotted or issued and the Commission payable on the Initial Offer Price and the Initial Offer Period in relation to any Sub-Fund shall be determined by the Directors. The ICAV may only offer shares at a fixed price after the close of the Initial Offer Period in relation to a Sub-Fund where the ICAV has confirmed to the Central Bank that existing Members of the Sub-Fund will not be prejudiced.
- (b) The price of any share following the Initial Offer Period in respect of such share shall be the applicable Net Asset Value of such share as determined in accordance with Clauses 15 and 16 adjusted in such manner as may be provided for in the Prospectus to cover any Commission or other charge payable. Where provided for in the Prospectus, in calculating the subscription price per share the Directors may on any Valuation Date when there are net subscriptions adjust the subscription price by adding an anti-dilution levy to cover dealing costs and to preserve the value of the underlying assets of the relevant Sub-Fund.
- (c) Where provided for in, and subject to the terms of, the Prospectus, the Directors may require an applicant for shares to pay to the ICAV in addition to the price per share such Duties and Charges in respect of the shares as the Directors from time to time may determine.
- (d) The Directors in respect of any Valuation Date may issue shares on terms providing for settlement to be made by the vesting in the ICAV of any investments for the time being held or which may be held hereunder and would qualify as investments of the relevant Sub-Fund in accordance with the investment objectives, policies and restrictions of the Sub-Fund and in connection therewith the following provisions shall apply:-
 - (i) the number of shares to be issued shall be not more than the number which would have been issued for settlement in cash as hereinbefore provided on the basis that the amount of such cash was an amount equal to the value of the investments to be so vested in the ICAV as determined by the Directors on the relevant Valuation Date;
- (e)

- (ii) no shares shall be issued until the investments shall have been vested in the Depositary to the Depositary's satisfaction;
 - (iii) any Duties and Charges or Commission arising in connection with the vesting of such investments in the ICAV shall be paid by the person to whom the shares are to be issued; and
 - (iv) the Depositary shall be satisfied that the terms on which the shares are issued shall not be such as are likely to result in any material prejudice to the existing Members.
- (f) No shares shall be issued in respect of any Sub-Fund for which the determination of the Net Asset Value is suspended pursuant to Clause 17 hereof.

12. QUALIFIED HOLDERS

- (a) The Directors shall have power (but shall not be under any duty) to impose such restrictions (other than a restriction on transfer which is not expressly referred to in this Instrument of Incorporation) as they may think necessary for the purpose of ensuring that no shares in the ICAV are acquired or held by any person as described in Clause 12(d).
- (b) The Directors may upon an application for shares or on a transfer or transmission of shares or at any other time and from time to time require such evidence or declarations to be furnished to them in connection with the matters stated in Clauses 12 (a) and (e) as they shall in their absolute discretion deem sufficient.
- (c) If a person becomes aware that he is holding or owning shares in contravention of Clause 12 he shall forthwith in writing request the ICAV to redeem such shares in accordance with Clause 15 or shall transfer such shares to a person duly qualified to hold the same unless he has already received a notice under Clause 12(f).
- (d) If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any shares are owned directly or beneficially by:-
 - (i) any person in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to hold such shares;
 - (ii) any person or persons in circumstances which, (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons whether connected or not, or any other circumstances appearing to the Directors to be relevant) in the opinion of the Directors, might result in the ICAV, a Sub-Fund or the Members as a whole incurring any liability to taxation or suffering regulatory, legal, pecuniary, tax or material administrative disadvantage which the ICAV, the Sub-Fund or the Members as a whole might not otherwise have suffered or incurred;
 - (iii) any person who does not supply any of the information or declarations required hereunder within seven (7) days of a request to do so being sent by the Directors;
 - (iv) any person who is not a Qualifying Investor;

- (v) any person who subscribes for or acquires shares representing less than the Minimum Holding or Minimum Capital Commitment, as applicable; or
- (vi) any person whose interest in the ICAV and/or Sub-Fund as applicable would not in the discretion of the Directors be in the best interests of the ICAV and/or the Sub-Fund;
- (vii) any such other category of persons as may be designated by the Directors from time to time, and such category of person may be disclosed in the Prospectus from time to time,

the Directors shall be entitled to give notice (in such form as the Directors deem appropriate) to such person or persons requiring him or them to transfer such shares to a person who is qualified or entitled to own the same or to request in writing the redemption of such shares in accordance with Clause 15.

- (e) If any person upon whom such a notice is served as aforesaid does not within twenty (20) days of the date of such notice transfer such shares or request in writing the ICAV to redeem the shares he shall be deemed forthwith upon the expiration of twenty (20) days to have so requested the redemption of all of his shares which are the subject of such notice whereupon he shall be bound to deliver the confirmation of ownership in respect of the shares to the ICAV forthwith and the Directors shall be entitled to appoint any person to execute such documents as may be required for the purposes of the redemption. The deemed request to redeem the shares may not be withdrawn, notwithstanding that redemptions may have been suspended pursuant to Clause 17.
- (f) Subject to any requisite official consents first having been obtained, settlement shall be effected by depositing the redemption monies or proceeds of sale in a bank for payment to the person entitled upon such consents being obtained and, if relevant, against production of such evidence of ownership as the Directors may require representing the shares previously held by such person, together with the redemption request duly signed. Upon deposit of such redemption monies as aforesaid such person shall have no further interest in such shares or any of them or any claim in respect thereof except the right to claim without recourse to the ICAV the redemption monies so deposited (without interest) upon such consents being obtained and against the production of the said evidence of ownership with the redemption request duly signed.

13. CAPITAL CALLS

Any uncalled Capital Commitment may be called by the ICAV by determination of the Directors pursuant to a Capital Call in the circumstances more particularly outlined in the Prospectus or Supplement.

14. DEFAULT PROVISIONS

- (a) Where any amount is not paid by a Member by the due date specified in the Capital Call, the ICAV may impose a late payment fee as set out in the Prospectus. If a Member fails to contribute any portion of its uncalled Capital Commitment on the date on which such portion of the uncalled Capital Commitment is due under a Capital Call (and fails to remedy such default within such period as set out in the Prospectus or Supplement) as described in the Prospectus or Supplement (a “**Shortfall Amount**”), the ICAV may declare such Member to be a Defaulting Member. In the event that a

Member is declared a Defaulting Member, the ICAV has the power to pursue the following remedies:

- (i) In the event that a Member is declared a Defaulting Member, the ICAV shall have the right to sell the Shares of any Defaulting Member to any one or more other Members in the same Sub-Fund at the highest price offered by such other Member(s), or, at the absolute discretion of the ICAV, to any third party or parties acceptable to the ICAV who shall offer a higher price and who otherwise qualify as an eligible investor in accordance with the terms hereof. The proceeds of any such sale shall be applied as follows: (i) first, to reimburse the ICAV for any costs (including taxes) incurred in connection with such sale; (ii) then, to pay interest to the ICAV at the rate specified in the Prospectus on any amounts due and owing by the Defaulting Member from the date the payment was due until the date of the sale; and (iii) then, to pay to the Defaulting Member a maximum amount equal to two-thirds of the net proceeds (including after deducting the amounts set forth in (i) and (ii) above) received in respect of the sale.
- (ii) Any remaining proceeds after payment of the amounts referred to above shall be retained by the ICAV and treated as income to the relevant Sub-Fund, and the Defaulting Member shall have no further rights thereto. A Defaulting Member shall also forfeit all rights to all the monies payable in respect of any Shares and not paid before the default.
- (iii) As of the date of such sale, the transferee of such Defaulting Member's Shares shall become the owner of the Defaulting Member's Shares and shall be treated for all purposes as having made all payments made by the Defaulting Member pursuant to any Capital Calls, and shall be obligated to pay the entire remaining amount of the Defaulting Member's uncalled Capital Commitment (including payment in full in immediately available funds on the date of such sale of the portion of such Capital Commitment then due and payable, if any).
- (iv) Effective as of such sale, the Defaulting Member shall cease to be a Member and shall have no further rights in or against the ICAV or the Sub-Fund and shall not be entitled to receive notice of, attend or vote at any general meeting of the ICAV or the Sub-Fund or Series or to participate in any subsequent votes or resolutions of shareholders.
- (v) The ICAV shall have the sole authority to compromise any claim of a Sub-Fund relating to the obligation of any Member to fund a Capital Call, and no consent or approval of any other shareholder or other person shall be required for such purpose.
- (vi) In addition to the above remedies the ICAV shall retain the right to pursue all legal remedies available to it including the right to institute legal proceedings to collect all amounts due and owing by a Member together with all expenses incurred by the ICAV in the collection of the relevant amount. The ICAV shall not be obligated to exercise the remedy for default provided for herein and, at its absolute discretion, the ICAV may pursue any other available legal remedies or none at all.

- (b) If a Member becomes a Defaulting Member, then the procedure set forth below, unless otherwise provided for in the Prospectus, shall apply in respect of the resulting Shortfall Amount:-
- (i) the ICAV may in its absolute discretion determine to increase the amount of the applicable Capital Call required from each non-Defaulting Member on a *pro rata* basis based on the aggregate uncalled Capital Commitment of all non-Defaulting Members (up to an amount not exceeding any non-Defaulting Member's uncalled Capital Commitment);
 - (ii) to the extent any Shortfall Amount has not been fully funded under the foregoing sub-clause (i), the ICAV may also offer non-Defaulting Members the opportunity to increase their capital contributions for such Investment. If any such non-Defaulting Member declines to invest in all or any portion of its share of the Shortfall Amount, such uncommitted amount will be offered to any non-Defaulting Member who has agreed to invest in its share of the Shortfall Amount and concurrently advised the ICAV of its willingness to increase its capital contribution in excess of such share, and the ICAV shall allocate such uncommitted amount among all such other non-Defaulting Members on a basis the ICAV determines; and
 - (iii) to the extent any Shortfall Amount has not been fully funded under foregoing sub-clauses (i) and (ii), the ICAV may offer the remaining balance of such Shortfall Amount to any other person on such terms and conditions as the ICAV may determine.

15. REDEMPTION OF SHARES

(1) Open-Ended Sub-Funds

The following provisions shall apply in respect of the redemption of Shares of open-ended Sub-Funds:-

- (a) The ICAV may redeem its own outstanding fully paid shares at any time in accordance with the rules and procedures set out herein and in the Prospectus. Except as may be approved by the Central Bank and subject to such requirements as may be imposed by the Central Bank under the ICAV Act or any other enactment, a Member may at any time irrevocably request the ICAV to redeem all or any part of his shares in the ICAV and such request shall be in such form and shall be made in such manner and shall be received by such time as may be set out in the Prospectus or otherwise determined by the ICAV from time to time, provided that such redemption facilities are provided to Members on at least a quarterly basis or with such other frequency as may be permitted by the Central Bank.
- (b) A request for redemption of shares shall be in such form as the ICAV shall prescribe, shall be irrevocable and, unless otherwise provided for in the Prospectus, shall be filed by a Member in written form at the registered office of the ICAV, or at the office of the person or entity from time to time designated by the ICAV as its agent for the redemption of shares, and, at the request of the ICAV shall be accompanied by the confirmation of ownership (duly endorsed by the Member) or by proper evidence of succession or assignment satisfactory to the ICAV together with unmatured dividend coupons, if applicable. Shares shall be redeemed at a forward pricing basis, meaning that the deadline for receipt of redemption requests shall precede the Valuation Point.
- (c) On receipt of a request for redemption of shares duly completed the ICAV shall redeem the shares as requested on the Valuation Date on which the redemption request is

effective subject to any suspension of this redemption obligation pursuant to Clause 17 hereof. Shares in the capital of the ICAV which are redeemed by the ICAV shall be cancelled and the issued share capital of the ICAV reduced accordingly.

- (d) The redemption price per share shall be the applicable Net Asset Value for such share obtaining on the Valuation Date on which the redemption request is effective, subject to such adjustments in respect of Commission or other charge as may be set out in the Prospectus or as provided for herein. The maximum charge (if any) shall be set out in the Prospectus. Where provided for in the Prospectus, in calculating the redemption price per share the Directors may on any Valuation Date when there are net redemptions adjust the redemption price by deducting an anti-dilution levy to cover dealing costs and to preserve the value of the underlying assets of the relevant Sub- Fund.
- (e) Payment to a Member under this Clause will ordinarily be made in the Base Currency or the relevant Series Currency and shall be dispatched within the period specified in the Prospectus which shall not exceed ninety (90) days (or such other number of days as may be permitted by the Central Bank) following acceptance of the redemption request as provided for in Clause 15(1)(a) above.
- (f) On redemption of part only of the shares held by any Member, at the request of the Member, the Directors shall procure that a revised confirmation of ownership shall be issued free of charge for the balance of such shares.
- (g) In the event that a redemption of part only of a Member's holding of shares leaves the Member holding less than the Minimum Holding the Directors may, if they think fit, require that the ICAV redeems the whole of that Member's holding.
- (h) If the ICAV receives requests for the redemption of shares in respect of ten (10) per cent or more of the Net Asset Value of any Sub-Fund on any Valuation Date (or twenty five (25) per cent in the case of a Sub-Fund with quarterly, or less frequent, redemption facilities), the Directors may elect to restrict the total number of shares redeemed to ten (10) per cent of the Net Asset Value of such Sub-Fund (or twenty five (25) per cent in the case of a Sub-Fund with quarterly, or less frequent, redemption facilities), as appropriate, in which case such shares shall be redeemed rateably. Where part of a redemption request is carried forward to one or more subsequent Dealing Days, the redemption request will be treated as if it was received on each subsequent Dealing Day, without priority over new redemption requests received on the same Dealing Day, until all the Shares subject to the original redemption request have been redeemed, subject always to the provisions of this Clause 15(1)(h) and to the suspension of any redemption obligation pursuant to Clause 18.
- (i) At the absolute discretion of the Directors and with the approval of the relevant Member, the ICAV may satisfy any application for redemption of shares by the transfer to the Member of assets of the ICAV *in specie*, **PROVIDED THAT** the ICAV shall transfer to the Member that proportion of the assets of the Sub-Fund which is then equivalent in value to the shareholding of the Member then requesting the redemption of shares, but adjusted as the Directors may determine to reflect the liabilities of the ICAV **PROVIDED ALWAYS THAT** the nature of the assets and the type of assets to be transferred to each Member shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and such asset allocation shall be subject to the approval of the Depositary. The Depositary shall only approve such asset allocation where it is satisfied that the terms of the exchange shall not be such as are likely to result in any material prejudice to the existing Members. For the foregoing purposes the value of assets shall be determined on the same basis as used in calculating the Net Asset Value. If a Member so requests, the

ICAV shall arrange to dispose of the Investments on behalf of the Member. The price obtained by the ICAV may be different from the price at which the Investments were valued when determining the Net Asset Value and the AIFM, the external valuer (if any), the Investment Manager and the ICAV shall not be liable for any difference arising. The transaction costs incurred in the sale of any assets pursuant to this Clause 15(1)(i) shall be payable by the relevant Member.

- (j) At the absolute discretion of the Directors, the ICAV may satisfy any application for redemption of shares by a Member which represents five (5) per cent or more of the Net Asset Value of a Sub-Fund by the transfer to the Member of assets of the ICAV *in specie* **PROVIDED ALWAYS THAT** the nature of the assets and the type of assets to be transferred to each Member shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and such asset allocation shall be subject to the approval of the Depositary. The Depositary shall only approve such asset allocation where it is satisfied that the terms of the exchange shall not be such as are likely to result in any material prejudice to the existing Members. For the foregoing purposes the value of the assets shall be determined on the same basis as used in calculating the Net Asset Value. If a Member so requests the ICAV shall arrange to dispose of the Investments on behalf of the Member. The price obtained by the ICAV may be different from the price at which the Investments were valued when determining the Net Asset Value and the AIFM, the external valuer (if any), the Investment Manager and the ICAV shall not be liable for any difference arising. The transaction costs incurred in the sale of any assets pursuant to this Clause 15(1)(j) shall be payable by the relevant Member.
- (k) In the event that the ICAV is required to deduct, withhold or account for tax on shares held by a Member (whether upon a redemption of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Member (whether in cash or otherwise), the Directors shall be entitled to arrange for the redemption and cancellation of such number of the shares of such Member as are sufficient after the deduction of any redemption charges to discharge any such tax liability and the Directors may decline to register a transferee as a Member until such time as they receive from the transferee such declarations as to residency or status as they may require. The Depositary shall ensure that the redemption proceeds are held for the purpose of discharging any applicable tax liability as aforesaid.
- (l) Where the ICAV receives a request for the redemption of shares from any Member in respect of which the ICAV is required to account for, deduct or withhold tax, the ICAV shall be entitled to deduct from the proceeds of the redemption such amount of tax as the ICAV is required to account for, deduct or withhold and shall arrange to discharge the amount of tax due.
- (m) In the event that a Member fails to provide information, representations, certificates or forms (or undertake any actions) requested by the ICAV or its delegates which is reasonably required to facilitate the ICAV's compliance with any applicable tax laws or regulations in any jurisdiction, the ICAV shall have full authority to: (i) cause a transfer of such Member's shares to a person or entity selected by the ICAV for any consideration that can be obtained for such shares; (ii) compulsorily redeem the shares held by the Member and cause such Member to withdraw as a Member for an amount determined by the ICAV; (iii) assign the shares to an alternative investment vehicle or new parallel vehicle formed at the expense of the Member (and whose expenses the Member will bear on an ongoing basis); or (iv) take any other steps as the ICAV determines in its absolute discretion are necessary or appropriate to mitigate the consequences for the ICAV, the other Members and the ICAV's delegates of the ICAV's failure to comply with any applicable tax laws or regulations in any jurisdiction resulting

from the Member's failure to provide such information, representations, certificates or forms (or undertake any actions) requested by the ICAV. If the ICAV determines, at its absolute discretion, to allow a Member to retain its shares, despite the fact that the Member has not provided the information, representations, certificates or forms (or undertaken any actions) requested by the ICAV or its delegates, it is possible that a withholding tax might be imposed in respect of certain of the ICAV's income, and, to the extent that such income is attributable to the Member, or in respect of, or distributions to, such Member, the ICAV shall have the right to cause the Member to bear the economic burden of such tax by specially allocating such tax to the shares held by the Member and/or or by withholding any such tax from distributions to such Member.

- (n) In the event that the amount payable to a Member on a repurchase is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member, the ICAV shall be entitled to retain such redemption proceeds for the benefit of all of the remaining Members provided that in no event shall the value of such redemption proceeds exceed €20.00 (or its foreign currency equivalent) for any Member.
- (o) Where provided for in the Prospectus, the ICAV may compulsorily redeem shares as may be necessary to implement the equalisation of performance fees payable by Members.
- (p) Where the ICAV receives a request for the redemption of shares of an open-ended Sub-Fund from any Member in respect of which the ICAV is required to account for, deduct or withhold tax, the ICAV shall be entitled to deduct from the proceeds of the redemption such amount of tax as the ICAV is required to account for, deduct or withhold and shall arrange to discharge the amount of tax due.

(2) Open-Ended Sub-Funds with Limited Liquidity

Subject always to the redemption provisions set out in the Prospectus or the relevant Supplement, the following provisions shall apply in respect of the redemption of Shares of open-ended Sub-Funds with limited liquidity:-

- (a) Depending on the nature of the Sub-Fund and as set out in the relevant Supplement, Members may have the limited right to request the redemption of shares. In this regard, the Directors, at their absolute discretion in accordance with this Instrument of Incorporation, the Prospectus and the ICAV Act, may notify Members that Members may request the redemption of shares issued in respect of any Sub-Fund on a Valuation Date designated by the Directors at the Net Asset Value per share. The ICAV shall provide Members with a redemption notice as set out in the Prospectus which shall specify that shares held by a Member to a certain monetary amount may be redeemed provided that each such Member shall have a *pro rata* entitlement to redeem shares within the same series. Shares shall be redeemed at the Net Asset Value per share on the relevant Valuation Date (subject to such adjustments as set out in the Prospectus) and shall be cancelled on redemption. Settlement proceeds in respect of any redemption of shares shall be paid within the period specified in the Prospectus after the relevant Valuation Date. Subject to the provisions of the Prospectus, the right to request a redemption of shares of any series may be conditional on the receipt by the ICAV of redemption requests by Members holding a specified percentage of the shares in issue of the relevant Series as set out in the Prospectus.
- (b) Each Sub-Fund shall terminate and the Directors will arrange for the issued and outstanding shares of each Sub-Fund to be redeemed at the Net Asset Value per share on

the Final Redemption Day. Settlement proceeds shall be paid to Members of record as soon as practicable after the Final Redemption Day. Where the redemption of shares on the termination of a Sub-Fund would result in the number of Members falling below the legal minimum number of members set out in the ICAV Act or would result in the issued share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain under the ICAV Act, the ICAV may defer the redemption of such shares the redemption of which would result in such number or amount not being satisfied until the ICAV is wound up or until the ICAV procures the issue of sufficient shares to ensure that the aforesaid number and amount are satisfied. The ICAV shall be entitled to select the shares for such deferred redemption in such manner as it may deem fair and reasonable and as may be approved by the Depositary.

- (c) Payment to a Member under this Clause will ordinarily be made in the Base Currency of the relevant Series or in any other freely convertible currency at the rate of exchange for conversion on the date of payment and shall be dispatched within the period specified in the Prospectus.
- (d) On redemption of part only of the shares held by any Member, the Directors shall procure that a revised share certificate or other evidence of ownership shall be issued free of charge for the balance of such shares.
- (e) At the absolute discretion of the Directors and with the approval of the relevant Member, the ICAV may satisfy any application for redemption of shares by the transfer to the Member of assets of the ICAV *in specie*, **PROVIDED THAT** the ICAV shall transfer to the Member that proportion of the assets of the Sub-Fund which is then equivalent in value to the shareholding of the Member then requesting the redemption of shares, but adjusted as the Directors may determine to reflect the liabilities of the ICAV **PROVIDED ALWAYS THAT** the nature of the assets and the type of assets to be transferred to each Member shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and such asset allocation shall be subject to the approval of the Depositary. The Depositary shall only approve such asset allocation where it is satisfied that the terms of the exchange shall not be such as are likely to result in any material prejudice to the existing Members. For the foregoing purposes the value of assets shall be determined on the same basis as used in calculating the Net Asset Value. If a Member so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Member. The price obtained by the ICAV may be different from the price at which the Investments were valued when determining the Net Asset Value and the Investment Manager and the ICAV shall not be liable for any difference arising. The transaction costs incurred in the sale of any assets pursuant to this Clause 15(2)(e) shall be payable by the relevant Member.
- (f) At the absolute discretion of the Directors, the ICAV may satisfy any application for redemption of shares by a Member which represents five (5) per cent or more of the Net Asset Value of a Sub-Fund by the transfer to the Member of assets of the ICAV *in specie* **PROVIDED ALWAYS THAT** the nature of the assets and the type of assets to be transferred to each Member shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and such asset allocation shall be subject to the approval of the Depositary. The Depositary shall only approve such asset allocation where it is satisfied that the terms of the exchange shall not be such as are likely to result in any material prejudice to the existing Members. For the foregoing purposes the value of the assets shall be determined on the same basis as used in calculating the Net Asset Value. If a Member so requests the ICAV shall arrange to dispose of the Investments on behalf of the Member. The price obtained by the ICAV may be different from the price at which the Investments were valued when determining the Net Asset Value and the Investment Manager and the ICAV shall not

be liable for any difference arising. The transaction costs incurred in the sale of any assets pursuant to this Clause 15(2)(f) shall be payable by the relevant Member.

- (g) In the event that a Member fails to provide information, representations, certificates or forms (or undertake any actions) requested by the ICAV or its delegates which is reasonably required to facilitate the ICAV's compliance with any applicable tax laws or regulations in any jurisdiction, the ICAV shall have full authority to: (i) cause a transfer of such Member's shares to a person or entity selected by the ICAV for any consideration that can be obtained for such shares; (ii) compulsorily redeem the shares held by the Member and cause such Member to withdraw as a Member for an amount determined by the ICAV; (iii) assign the shares to an alternative investment vehicle or new parallel vehicle formed at the expense of the Member (and whose expenses the Member will bear on an ongoing basis); or (iv) take any other steps as the ICAV determines in its absolute discretion are necessary or appropriate to mitigate the consequences of the ICAV's failure to comply with any applicable tax laws or regulations in any jurisdiction resulting from the Member's failure to provide such information, representations, certificates or forms (or undertake any actions) requested by the ICAV or its delegates: on the ICAV; the AIFM, any other affiliate of the AIFM; and the other Members. If the ICAV determines, at its absolute discretion, to allow a Member to retain its shares, despite the fact that the Member has not provided the information, representations, certificates or forms (or undertaken any actions) requested by the ICAV or its delegates, it is possible that a withholding tax might be imposed in respect of certain of the ICAV's income, and, to the extent that such income is attributable to the Member, or in respect of, or distributions to, such Member, the ICAV shall have the right to cause the Member to bear the economic burden of such tax by specially allocating such tax to the shares held by the Member and/or or by withholding any such tax from or distributions to such Member.
- (h) In the event that the amount payable to a Member on a redemption is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member, the ICAV shall be entitled to retain such redemption proceeds for the benefit of all of the remaining Members provided that in no event shall the value of such redemption proceeds exceed €20.00 (or its foreign currency equivalent) for any Member.
- (i) Where provided for in the Prospectus, the ICAV may compulsorily redeem shares as may be necessary to implement the equalisation of performance fees payable by Members.

(3) Closed-Ended Sub-Funds

- (a) Closed-ended Sub-Funds may be established with no right of redemption, subject to any conditions set down by the Central Bank. Each Sub-Fund shall terminate and the Directors will arrange for the issued and outstanding shares of each Sub-Fund to be redeemed at the Net Asset Value per share on the Final Redemption Day, provided that the Final Redemption Day may be deferred for a finite period at the discretion of the AIFM or the Investment Manager and subject to approval by a Special Resolution of the Sub-Fund. Following such redemption, the ICAV shall apply to the Central Bank for the withdrawal of the approval of the relevant Sub-Fund. Settlement proceeds shall be paid to Members of record as soon as practicable after the Final Redemption Day. Where the redemption of shares on the termination of a Sub-Fund would result in the number of Members falling below the legal minimum number of members set out in the ICAV Act or would result in the issued share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain under the ICAV Act, the ICAV may defer the redemption of such shares the redemption of which would result in such number or amount not being satisfied until the ICAV is wound up or until the ICAV

procures the issue of sufficient shares to ensure that the aforesaid number and amount are satisfied. The ICAV shall be entitled to select the shares for such deferred redemption in such manner as it may deem fair and reasonable and as may be approved by the Depositary.

- (b) Payment to a Member under this Clause will ordinarily be made in the Base Currency of the relevant Series or in any other freely convertible currency at the rate of exchange for conversion on the date of payment and shall be dispatched within the period specified in the Prospectus.
- (c) Where the ICAV receives a request for the redemption of shares that, pursuant to the Prospectus or as otherwise determined by the Directors, are redeemable on the date of such request from any Member in respect of which the ICAV is required to account for, deduct or withhold tax, the ICAV shall be entitled to deduct from the proceeds of the redemption such amount of tax as the ICAV is required to account for, deduct or withhold and shall arrange to discharge the amount of tax due.
- (d) In the event that a Member fails to provide information, representations, certificates or forms (or undertake any actions) requested by the ICAV or its delegates which is reasonably required to facilitate the ICAV's compliance with any applicable tax laws or regulations in any jurisdiction, the ICAV shall have full authority to: (i) cause a transfer of such Member's shares to a person or entity selected by the ICAV for any consideration that can be obtained for such shares; (ii) compulsorily redeem the shares held by the Member and cause such Member to withdraw as a Member for such consideration as may be determined by the Directors and paid in the manner provided for in the Prospectus or as otherwise determined by the Directors; (iii) assign the shares to an alternative investment vehicle or new parallel vehicle formed at the expense of the Member (and whose expenses the Member will bear on an ongoing basis); or (iv) take any other steps as the ICAV determines in its absolute discretion are necessary or appropriate to mitigate the consequences of the ICAV's failure to comply with any applicable tax laws or regulations in any jurisdiction resulting from the Member's failure to provide such information, representations, certificates or forms (or undertake any actions) requested by the ICAV or its delegates: on the ICAV; the AIFM, any other affiliate of the ICAV or the AIFM; and the other Members. If the ICAV determines, at its absolute discretion, to allow a Member to retain its shares, despite the fact that the Member has not provided the information, representations, certificates or forms (or undertaken any actions) requested by the ICAV or its delegates, it is possible that a withholding tax might be imposed in respect of certain of the ICAV's income, and, to the extent that such income is attributable to the Member, or in respect of, or distributions to, such Member, the ICAV shall have the right to cause the Member to bear the economic burden of such tax by specially allocating such tax to the shares held by the Member and/or by withholding any such tax from or distributions to such Member.
- (e) The maximum redemption charge payable by the Member shall not be increased without the approval of at least 75 per cent of the votes cast in person or by proxy at a general meeting, where there is no opportunity for Members to redeem or otherwise exit the relevant Sub-Fund, or without the approval of at least 50 per cent of the votes cast in person or by proxy at a general meeting, where there is an opportunity for Members to redeem or otherwise exit the relevant Sub-Fund, or such other means of approval as may be agreed with the Central Bank and in accordance with the requirements of the Central Bank.

16. TOTAL REDEMPTION

- (a) With the sanction of an Ordinary Resolution of the Members of the ICAV, a Sub-Fund or a Series, the ICAV may redeem all of the shares of the ICAV or of the relevant Sub-Fund or series.
- (b) All of the shares of the ICAV, a Sub-Fund or Series may be redeemed by the ICAV if so determined by the Directors provided that notice of not less than twenty-one (21) days or such longer period as may be specified in the Prospectus has been given to the holders of shares in the ICAV or the relevant Sub-Fund or Series.
- (c) If all of the shares in the ICAV, a Sub-Fund or a Series are to be redeemed as aforesaid the ICAV, with the approval of the Members of the ICAV, the Sub-Fund or series, as the case may be, by Ordinary Resolution, or with the consent of any Member, may divide amongst the Members or any individual Member who so consents *in specie* all or part of the assets of the ICAV, Sub-Fund or series according to the value of the shares then held by each Member as determined in accordance with Clause 17 hereof.
- (d) If all of the shares are to be redeemed as aforesaid and the whole or any part of the business or property of the ICAV, a Sub-Fund or series or any of the assets of the ICAV is proposed to be transferred or sold to another company (hereinafter called the “**Transferee**”) the ICAV may, with the sanction of a Special Resolution conferring either a general authority on the Directors or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, units, policies or other like interests or property in or of the Transferee for distribution among the Members, or may enter into any other arrangement whereby any Member may *in lieu* of receiving cash or property, or in addition thereto, participate in the profits of, or receive, any other benefit from the Transferee.
- (e) Where a redemption of shares pursuant to Clauses 16(a), (b) or (c) would result in the number of Members falling below two or would result in the issued share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain pursuant to applicable law, the ICAV may defer the redemption of such shares, the redemption of which would result in such number or amount not being satisfied, until the ICAV is wound up or until the ICAV procures the issue of sufficient shares to ensure that the aforesaid number and amount are satisfied. The ICAV shall be entitled to select the shares for such deferred redemption in such manner as it may deem to be fair and reasonable and as may be approved by the Depositary.
- (f) If all of the shares in any Sub-Fund are to be redeemed, the assets available for distribution (after satisfaction of creditors’ claims) shall be distributed *pro rata* to the holders of the shares in proportion to the number of the shares held in that Sub-Fund. The balance of any assets of the ICAV then remaining that are not attributable to any particular Sub-Fund shall be apportioned among the Sub-Funds *pro rata* to the Net Asset Value of each Sub-Fund immediately prior to any distribution to Members and shall be distributed among the Members of each Sub-Fund *pro rata* to the number of shares in that Sub-Fund held by them. With the authority of an Ordinary Resolution of the Members of a Sub-Fund or with the consent of any Member, the ICAV may make distributions *in specie* to Members or to any individual Member who so consents. At the request of any Member, the ICAV shall arrange the sale of such assets at the expense of such Member and without any liability on the part of the ICAV, the Administrator, the Investment Manager or the AIFM if the proceeds of sale of any asset are less than the value of the assets at the time at which it was distributed *in specie*. The transaction costs incurred in the disposal of such investments shall be borne by the Members. The

Subscriber Shares do not entitle the holders to participate in the dividends or net assets of the Sub-Funds.

17. **DETERMINATION OF NET ASSET VALUE**

- (a) The ICAV shall determine the Net Asset Value of the ICAV, each series and each Sub-Fund at each Valuation Point. The Net Asset Value shall be expressed in the Base Currency as a per share figure for the issue of shares and for the redemption of shares respectively as appropriate and shall be determined in accordance with Clause 17 hereof and the Prospectus. The Net Asset Value of the ICAV is calculated by deducting the total liabilities of the ICAV from the total assets of the ICAV. Total assets include the value of all investments held, the sum of any cash and accrued interest. Total liabilities comprise all liabilities including any borrowings, accrued expenses and any contingencies for which reserves are determined to be required. Members shall be informed of the Net Asset Value calculation(s) applicable to them in the manner provided for in the Prospectus or as otherwise determined by the Directors.
- (b) Subject to Clause 17(c), the Net Asset Value per Share of a Sub-Fund shall be the value of the gross assets attributable to the Sub-Fund less all of the liabilities attributable to the Sub-Fund in respect of the costs and expenses payable in relation to the Sub-Fund) divided by the number of shares of the Sub-Fund outstanding as of the Valuation Point.
- (c) The Net Asset Value of each series shall be determined by establishing the proportion of the assets of the series as at the most recent Net Asset Value calculation or the close of the Initial Offer Period in the case of an initial offer of a series, adjusted to take account of any subscription orders (after deduction of any redemption orders) and by allocating relevant Series Expenses (as defined below) and fees to the series and making appropriate adjustments to take account of accrued distributions which may be payable out of each series, if applicable, and apportioning the Net Asset Value accordingly. The Net Asset Value per Share of a series shall be calculated by dividing the Net Asset Value of the series by the number of shares in issue in that series. Expenses or fees or charges not attributable to a particular series may be allocated amongst the series based on their respective Net Asset Value or any other reasonable basis determined by the ICAV in consultation with the Administrator and approved by the Depositary having taken into account the nature of the fees and charges. Series Expenses and fees relating specifically to a series will be charged to that series. In the event that series are priced in a currency other than the Base Currency, currency conversion costs will be borne by that series. In the event that a hedged series of shares within a Sub-Fund is issued which is priced in a currency other than the Base Currency of that Sub-Fund, the costs and gains/losses of any hedging transaction will accrue solely to the hedged currency series to which they relate. Hedged series of shares shall not be leveraged as a result of these transactions except to the extent agreed upon by the Central Bank.

“**Series Expenses**” means any expenses relating to the series and may include the expenses of registering a series in any jurisdiction or with any stock exchange, regulated market or settlement system and all other expenses arising from such registration and such further expenses howsoever arising as may be disclosed in the Prospectus. The costs of converting currency and the costs and gains/losses of the series specific hedging transactions (if any) are borne solely by the relevant series.
- (d) The ICAV at any time may, but shall not be obliged to, temporarily suspend the determination of the Net Asset Value, the sale, conversion and/or redemption of shares in the ICAV or any Sub-Fund, in the following instances and as may be disclosed in the Prospectus, during:-

- (i) any period during which one or more of a Sub-Fund's investments has suspended the determination of its or their net asset value(s) and/or has suspended redemptions or withdrawals;
 - (ii) any period when any of the principal markets or stock exchanges on which a substantial part of the investments of the relevant Sub-Fund are quoted is closed, otherwise than for ordinary holidays, or during periods in which dealings thereon are restricted or suspended;
 - (iii) the existence of any state of affairs which, in the opinion of the Directors and the AIFM, constitutes an emergency as a result of which disposal or valuation of a substantial part of the investments of the relevant Sub-Fund is not reasonably practicable or would be seriously detrimental to the interests of the Shareholders in the relevant Sub-Fund (or any series thereof);
 - (iv) any breakdown in the means of communication normally employed in determining the value of any portion of the investments of the relevant Sub-Fund or when for any reason the current prices on any market of a substantial part of the investments of the relevant Sub-Fund cannot be promptly and accurately ascertained;
 - (v) any period when the transfer of funds involved in the realisation or acquisition of any investments cannot, in the opinion of the Directors and the AIFM, be effected at normal rates of exchange;
 - (vi) any period when, in the opinion of the Directors and the AIFM, the effect of redemptions, including redemptions for which redemption requests have been received, would materially impair a Sub-Fund's ability to operate in pursuit of its objectives, or any of the remaining investors in that Sub-Fund (or any series thereof) would be unfairly and materially disadvantaged or the effect of redemptions would otherwise jeopardise the tax status of that Sub-Fund (or any series thereof);
 - (vii) any other such period when, in the opinion of the AIFM and the Directors, disposal of all or part of a Sub-Fund's assets, or determination of the Net Asset Value of the relevant Sub-Fund (or one or more series thereof) would not be reasonable or practicable or would be prejudicial to the investors in that Sub-Fund (or any series thereof);
 - (viii) any period when a resolution calling for the termination of the relevant Sub-Fund or the winding up of the ICAV has been proposed or the Sub-Fund is otherwise winding down its business; or
 - (ix) any period when the Directors consider it to be in the best interests of the ICAV or the Sub-Fund to do so or during any period that may be prescribed by the Directors and set out in the Prospectus.
- (e) The ICAV may elect to treat the first Business Day on which the conditions giving rise to the suspension have ceased as a substitute Valuation Date in which case the Net Asset Value calculations shall be made at the relevant Valuation Point and/or all issues and/or redemptions of shares shall be effected on the Valuation Date relating to that Valuation Point. Alternatively, the ICAV may elect not to treat such Business Day as a Valuation Date in which case it shall notify all applicants for shares and Members requesting redemption of shares who shall then be entitled to withdraw their applications and redemption requests by the date stated in the notification.

- (f) A suspension of redemptions may be made at any time prior to the payment of the redemption monies and the removal or the amendment to the Member's holding in the Register of Members. A suspension of subscriptions may be made at any time prior to the entry of the details of the relevant shares on the Register of Members.
- (g) Any such suspension shall be notified immediately to the Central Bank and in any event within the working day on the day of the suspension.

18. VALUATION OF ASSETS

- (a) The Net Asset Value of the ICAV shall be calculated in accordance with the provisions of this Clause and the Prospectus and such calculation shall be carried out for each Valuation Date. Members shall be informed of the valuation(s) of Investments attributable to their shares in the manner provided for in the Prospectus or as otherwise determined by the AIFM.
- (b) The Administrator shall determine the Net Asset Value per Share as at each Valuation Point. Shares will not be issued or redeemed until the Net Asset Value per Share has been calculated.
- (c) The value of any Investments shall be calculated in accordance with the rules set out in Clause 18(d) below and in the Prospectus.
- (d) In determining the value of the assets of a Sub-Fund:-
 - (i) deposits shall be valued at their nominal amount plus accrued interest from the date on which the same was acquired or made;
 - (ii) save as otherwise herein provided investments or assets listed, quoted or dealt in on a regulated market shall be valued at the Valuation Point in each case being the official closing price on the relevant valuation day on the market on which these assets are traded or admitted for trading (being the market which is the sole or in the opinion of the AIFM the principal market on which the investment in question is listed, quoted or dealt in). If such price is not available, "long" positions will be valued using the latest bid price and "short" positions will be valued using the latest offer price, unless an alternative valuation methodology is outlined in the applicable Supplement. If, in the sole opinion of the AIFM, the dealing price (which will be the official closing price) for the assets, calculated as at the Valuation Point is not representative of the value of the assets, the value will be the probable realisation value, estimated with care and in good faith by such competent person as may be appointed by the AIFM;
 - (iii) exchange traded futures and options contracts (including index futures) shall be valued at the settlement price as determined by the market in question. If such market price is not available, the value shall be the probable realisation value estimated with care and in good faith by an independent party appointed by the AIFM. Off-exchange derivative contracts shall be valued by the counterparty on a daily basis. The valuation must be approved or verified monthly by a third party who is independent of the counterparty. Forward exchange contracts shall be valued by reference to the price at which a new forward contract of the same size and maturity could be undertaken;

- (iv) securities quoted, listed or normally dealt in on more than one market, the AIFM shall adopt as the value thereof the relevant price on the market which, in their opinion, provides the principal market for such securities;
 - (v) at any time when dealing prices are not available in respect of assets listed, quoted or dealt in on a market in each case on the market on which these assets are traded or admitted for trading (being the market which is the sole or in the opinion of the AIFM the principal market on which the investment in question is listed, quoted or dealt in), the value of the assets will be the probable realisation value estimated with care and in good faith by such competent person as may be appointed by the AIFM;
 - (vi) any investments or assets not listed, quoted or dealt in on a market shall, be valued at the probable realisation value as determined with care and in good faith by such competent persons as may be appointed by the AIFM;
 - (vii) securities listed or traded on a market but acquired or traded at a premium or at a discount outside or off the relevant market may be valued, taking into account the level of premium or discount at the date of the valuation;
 - (viii) the AIFM may, at its discretion, in relation to any particular Sub-Fund which is not a money market type fund but which invests in money market type instruments, value bonds, commercial paper, floating rate notes or similar instruments on the basis of amortised cost provided that each such security shall have a residual maturity not exceeding 6 months;
 - (ix) cash shall be valued at face value (together with accrued interest to the relevant Valuation Date) unless, in the opinion of the AIFM, any adjustment should be made to reflect the value thereof;
 - (x) notwithstanding the foregoing the AIFM may permit some other method of valuation to be used for any particular asset if they consider that such valuation better reflects the fair value of that asset; and
 - (xi) notwithstanding any of the foregoing, the AIFM may adjust the value of any investment or other property if, having regard to currency, marketability, dealing costs and/or such other considerations as they may deem relevant, they consider that such adjustment is required to reflect the fair value thereof.
- (e) Subject to the terms of the Prospectus, in calculating the Net Asset Value of the assets:-
- (i) every share allotted by the ICAV shall be deemed to be in issue and the assets shall be deemed to include not only the relevant cash and property in the hands of the Depositary but also the amount of any cash or other property to be received in respect of shares allotted;
 - (ii) where Investments have been agreed to be purchased or sold but such purchase or sale has not been completed such Investments shall be included or excluded and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase or sale had been duly completed;
 - (iii) where notice of a redemption of shares has been given to the Depositary but such cancellation has not been completed the shares to be cancelled shall be

deemed not to be in issue and the value of the assets shall be reduced by the amount payable to the Members upon such cancellation;

- (iv) where any amount in one currency is required to be converted into another currency the AIFM may effect such conversion using such rates as the AIFM shall determine at the relevant time except where otherwise specifically provided herein;
 - (v) there shall be deducted from the assets the total amount of any actual or estimated liabilities properly payable out of capital including outstanding borrowings (if any) but excluding liabilities taken into account under subparagraph (ii) above and any estimated liability for tax on unrealised capital gains;
 - (vi) there shall be deducted from the assets such sum in respect of tax (if any) on net capital gains realised during the current Accounting Period prior to the valuation being made as in the estimate of the AIFM will become payable;
 - (vii) there shall be deducted from the value of any Investment in respect of which a call option has been written the value of such option calculated by reference to the relevant closing price quoted on a regulated market or if no such price is available a price determined by the AIFM as the AIFM considers in the circumstances to be reasonable;
 - (viii) there shall be added to the assets a sum representing any interest or dividends accrued but not received and a sum representing unamortised expenses;
 - (ix) there shall be added to the assets the amount (if any) available for distribution in respect of the last preceding Accounting Period but in respect of which no distribution has been declared and any unauthorised expenses;
 - (x) there shall be deducted from the assets the total amount (whether actual or estimated by the AIFM) of any other liabilities properly payable including accrued interest on borrowings (if any); and
 - (xi) the value of the assets shall be rounded upwards or downwards as appropriate to the nearest two decimal places or such other number of decimal places as the AIFM may decide and as may be disclosed in the Prospectus.
- (f) The AIFM may appoint or procure the appointment of an external valuer to the ICAV to perform the valuation function in accordance with the AIFMD Regulations and, in such case, references in this Clause 18 to the AIFM shall be deemed to include references to the external valuer acting in such capacity.

19. TRANSFER AND TRANSMISSION OF SHARES

- (a) Transfers are only permitted where provided for in the Prospectus.
- (b) All transfers of shares shall be effected by a transfer in writing in any usual or common form and every form of transfer shall state the full name and address of the transferor and transferee.
- (c) The instrument of transfer of a share shall be signed by or on behalf of the transferor and need not be signed by the transferee. The transferor shall be deemed to remain the holder

of the share until the name of the transferee is entered in the Register of Members in respect thereof.

- (d) A transfer of shares may not be registered if in consequence of such transfer the transferor or the transferee would hold a number of shares less than the Minimum Holding or would result in a contravention of this Instrument of Incorporation or would produce a result inconsistent with any provision of the Prospectus. Only investors who certify that they are Qualifying Investors and that they are aware of the risks involved in the proposed investment and that inherent in such investment is the potential to lose all of the sum invested shall be entered on the Register of Members as a Member.
- (e) The Directors may decline to register any transfer of shares at their absolute discretion and as more particularly set out in the Prospectus. Without limitation the Directors may decline to register any transfer of shares unless the instrument of transfer relates only to one series of shares and is deposited at the registered office of the ICAV or at such other place as the Directors may reasonably require, with such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.
- (f) If the Directors decline to register a transfer of any share they shall, within two months of the date on which the transfer was lodged with the ICAV, send to the transferee written notice of the refusal, where permitted to do so by applicable law.
- (g) The registration of any transfers may be suspended at such times and for such periods as the Directors from time to time may determine, **PROVIDED ALWAYS** that such registration of transfers shall not be suspended for more than thirty (30) days in any calendar year.
- (h) All instruments of transfer which shall be registered shall be retained by the ICAV subject to Clause 39, but any instrument of transfer which the Directors may decline to register shall (except in the case of fraud or where such is not permitted by applicable law) be returned to the person depositing the same.
- (i) In the case of the death of a Member, the survivors or survivor where the deceased was a joint holder, and the executors or administrators of the deceased where he was a sole or surviving holder, shall be the only person recognised by the ICAV as having title to his interest in the shares, but nothing in this Clause shall release the estate of the deceased holder whether sole or joint from any liability in respect of any share solely or jointly held by him.
- (j) Any guardian of an infant Member and any guardian or other legal representative of a Member under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Member shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the share or to make such transfer thereof as the deceased or bankrupt Member could have made, but the Directors shall, in either case, have the same right to refuse or suspend registration as they would have had in the case of a transfer of the share by the infant or by the deceased, insolvent or bankrupt Member before the death, insolvency or bankruptcy of the Member under legal disability before such disability.
- (k) A person so becoming entitled to a share in consequence of the death, insolvency or bankruptcy of a Member shall have the right to receive and may give a discharge for all monies payable or other advantages due on or in respect of the share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor save as

aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the share **PROVIDED ALWAYS THAT** the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with within ninety (90) days the Directors may thereafter withhold all moneys payable or other advantages due in respect of the share until the requirements of the notice have been complied with.

20. INVESTMENT OBJECTIVES

The Prospectus shall, where appropriate, set out details of the size, portfolio structure and investment strategies and objectives of the Sub-Funds. Under the current Rules, the ICAV is deemed to be a collective investment scheme for marketing solely to Qualifying Investors. Consequently the minimum subscription will be the amount prescribed by the Central Bank from time to time and which, at the date of this Instrument of Incorporation, is €100,000 or its equivalent amount in any other currencies (other than the case of Knowledgeable Employee).

21. GENERAL MEETINGS

- (a) All general meetings of the ICAV shall be held in Ireland.
- (b) Subject to Clause 21(c), the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year. Subject to Clause 21(c), not more than fifteen months shall elapse between the date of one annual general meeting of the ICAV and that of the next **PROVIDED THAT** if the ICAV holds its first annual general meeting within eighteen months after the date on which the registration order made by the Central Bank in respect of the ICAV comes into effect, the ICAV need not hold any other meeting as its annual general meeting in the year of its incorporation or in the following year. Subject to Clause 21(c), subsequent annual general meetings shall be held once in each year as determined by the Directors from time to time at such time and place in Ireland as may be determined by the Directors.
- (c) The Directors may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to the Members. An election under this Clause has effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting. Where an election under this Clause has effect for a year:-
 - (i) one or more Members holding, or together holding, not less than 10 per cent of the voting rights in the ICAV, or
 - (ii) the Auditor,may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.
- (d) All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- (e) The Directors may call an extraordinary general meeting whenever they think fit and extraordinary general meetings shall be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as provided by the ICAV Act.

22. NOTICE OF GENERAL MEETINGS

- (a) At least fourteen Clear Days' notice specifying the place, the day and the hour of the meeting, and in the case of special business the general nature of such business (and in the case of an annual general meeting specifying the meeting as such) shall be given in the manner hereinafter mentioned to such persons as are under the provisions hereof or the conditions of issue of the shares held by them entitled to receive notices from the ICAV.
- (b) The Directors, the AIFM and the Auditors shall each be entitled to receive notice of, and attend and speak at, any general meeting of the ICAV.
- (c) In each notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- (d) The accidental omission to give notice to, or the non-receipt of notice by, any person entitled to receive notice shall not invalidate the proceedings at any general meeting.

23. PROCEEDINGS AT GENERAL MEETINGS

- (a) All business that is transacted at an extraordinary general meeting and all business that is transacted at an annual general meeting, with the exception of the election of Directors in the place of those retiring, the reappointment of the retiring Auditors and the fixing of the remuneration of the Auditors, shall be deemed special.
- (b) No business shall be transacted at any general meeting unless a quorum is present. Two Members present either in person or by proxy shall be a quorum for a general meeting provided that, in the event that there is only one Member in a Sub-Fund or series, the quorum shall be one Member present in person or by proxy at the meeting. A representative of a corporation authorised pursuant to Clause 24(m) to be present at any meeting of the ICAV shall be deemed to be a Member for the purpose of a quorum.
- (c) If within half an hour from the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine.
- (d) The chairman or, if absent, the deputy chairman of the ICAV, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the ICAV, but if at any meeting neither the chairman nor the deputy chairman nor any other Director is present within fifteen minutes after the time appointed for holding the meeting, or if none of them are willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors are present, or if all the Directors present decline to take the chair, the Members present shall choose some Member present to be chairman.
- (e) The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen (14) days or more

seven (7) clear days' notice at the least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

- (f) At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by the chairman or by three (3) Members or by any Members present representing at least one tenth in number or value of the shares in issue having the right to vote at the meeting. Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- (g) If a poll is duly demanded, it shall be taken in such manner and at such place as the chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (h) The chairman may, in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- (i) In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall have a second or casting vote.
- (j) A poll demanded on the election of a chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairman directs not being more than thirty (30) days from the date of the meeting or adjourned meeting at which the poll was demanded.
- (k) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- (l) A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- (m) If at any time the share capital is divided into different series of shares, the rights attached to any series (unless otherwise provided by the terms of issue of the shares of that series or unless otherwise provided herein) may, whether or not the ICAV is being wound up, be varied at the absolute discretion of the Directors with the consent in writing of all of the holders of shares in that series or the approval of three-fourths of the holders of shares in that series, by value, represented or present and voting at a separate general meeting of the holders of the shares of that series, to which the provisions of this Instrument of Incorporation relating to general meetings shall *mutatis mutandis* apply.
- (n) Subject to the provisions of the ICAV Act and except where otherwise prescribed by the ICAV Act, a resolution in writing signed by all of the Members for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate

by their duly authorised representative) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting duly convened and held, and may consist of several documents in like form each signed by one or more persons, and if described as a Special Resolution shall be deemed to be a Special Resolution within the meaning of the ICAV Act. Any such resolution shall be served on the ICAV.

24. VOTES OF MEMBERS

- (a) On a show of hands every Member who is present in person or by proxy shall have one vote.
- (b) Each of the Shares entitles the holder to attend and vote at any general meeting PROVIDED THAT the holder of a Subscriber Share shall not be entitled to exercise any voting rights in respect of any Subscriber Share at any time that Participating Shares are held by more than one Member.
- (c) On a poll every Member present in person or by proxy shall be entitled to one vote in respect of each share held by him.
- (d) In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members in respect of the shares.
- (e) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- (f) On a poll, votes may be given either personally or by proxy.
- (g) On a poll, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
- (h) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. The appointment of a proxy by electronic means shall be effective only in such form as the Directors may approve. An instrument of proxy shall be in any usual form or in such form as the Directors may approve **PROVIDED ALWAYS THAT** such form shall give the holder the choice of authorising his/her proxy to vote for or against each resolution.
- (i) Any person (whether a Member or not) may be appointed to act as a proxy. A Member may appoint more than one proxy to attend on the same occasion.
- (j) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the registered office of the ICAV or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV not later than the deadline for receipt of proxies set out in the notice of meeting and if the aforesaid conditions are not complied with the instrument of proxy shall not be treated as valid. Where the appointment of a proxy and any authority under which it is signed is to be received by the ICAV in electronic form, it may also be received where

an address has been specified by the ICAV for the purpose of receiving Electronic Communications:-

- (i) in the notice convening the meeting;
 - (ii) in any appointment of proxy sent out by the ICAV in relation to the meeting;
or
 - (iii) in any invitation contained in an Electronic Communication to appoint a proxy issued by the ICAV in relation to the meeting.
- (k) No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.
- (l) The Directors may at the expense of the ICAV send, by post or otherwise, to the Members instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any series of Members, either in blank or nominating in the alternative any one or more of the Directors or any other persons as proxy. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the ICAV, such invitations shall be issued to all (and not to some only) of the Members entitled to be sent a notice of the meeting and to vote thereat by proxy.
- (m) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the ICAV at the registered office of the ICAV, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- (n) Any body corporate which is a Member may authorise by resolution of its Directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member and such body corporate shall for the purposes of these presents be deemed to be present in person at any such meeting if a person so authorised is present thereat.
- (o) The provisions of Clauses 21, 22, 23 and 24 shall apply *mutatis mutandis* to meetings of each Sub-Fund, or series of Members.

25. DIRECTORS

- (a) The number of the Directors shall not be less than two or, unless otherwise determined by the ICAV by Ordinary Resolution, more than twelve. The first Directors shall be appointed by the subscribers herein.
- (b) A Director need not be a Member.
- (c) The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

- (d) Subject to the prohibition on tax-free payments to Directors contained in the ICAV Act, the Directors shall be entitled to such remuneration in relation to the performance of their duties as the Directors may from time to time determine. The Directors and any alternate Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings or any meetings in connection with the business of the ICAV.
- (e) The ICAV shall not make any payment to a Director by way of compensation for loss of office, or as consideration for or in connection with retirement for loss of office, or as consideration for or in connection with retirement from office, unless the following conditions are first satisfied:-
 - (i) that particulars relating to the proposed payment (including its amount) are disclosed to the Members; and
 - (ii) that the proposal is approved by resolution of the ICAV in general meeting.
- (f) The Directors may, in addition to such remuneration as is referred to in Clause 25(d) hereof grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.
- (g) The Directors shall not be required to retire by rotation.
- (h) The ICAV at any general meeting at which a Director retires or is removed shall fill the vacated office by electing a Director unless the ICAV shall determine to reduce the number of Directors.
- (i) The office of a Director shall be vacated by a Director in any of the following events, namely:-
 - (i) if he resigns his office by notice in writing signed by him and left at the registered office of the ICAV;
 - (ii) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (iii) if he becomes of unsound mind;
 - (iv) if he ceases to be a Director by virtue of, or becomes prohibited from being a Director by reason of an order made under the provisions of any law or enactment;
 - (v) if he is requested by a majority of the other Directors (not being less than two in number) to vacate office; or
 - (vi) if he is removed from office by an Ordinary Resolution.
- (j) At least seven (7) days previous notice in writing shall be given to the ICAV of the intention of any Member or Members to propose any person other than a retiring Director for election to the office of Director and such notice shall be accompanied by notice in writing signed by the person to be proposed confirming his willingness to be appointed **PROVIDED ALWAYS THAT** if the Members present at a general meeting unanimously consent, the chairman of such meeting may waive the said notices and

submit to the meeting the name of any person so nominated, provided such person confirms in writing his willingness to be appointed and **PROVIDED FURTHER THAT** the nomination of any person other than a retiring Director for election as Director may be made only by a Director or by such Member or Members holding in the aggregate shares representing not less than 10 per cent of the Net Asset Value of the ICAV on the Valuation Date preceding the date of nomination.

- (k) At a general meeting a motion for the appointment of two or more persons as Directors by a single resolution shall not be made unless a resolution that it shall be so made has been first agreed to by the meeting without any vote being given against it.
- (l) Any Director may at any time by instrument in writing (whether in electronic form or otherwise in writing) under his hand and deposited at the registered office, or delivered at a meeting of the Directors, appoint any Director or other person to be his alternate Director and may in like manner at any time terminate such appointment.
- (m) The appointment of an alternate Director shall determine if his appointer ceases to be a Director or on the happening of any such event which if he were a Director would cause him to vacate such office.
- (n) An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointor) were a Director. If he himself shall be a director, or shall attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative, provided, however, that he shall count as one for the purposes of determining a quorum. If his appointor is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors or any other document executed on behalf of the ICAV shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply *mutatis mutandis* to any meeting of any such committee of which his appointor is a member. An alternate Director shall not (save as aforesaid or as otherwise herein provided) have power to act as a Director nor shall he be deemed to be a Director.
- (o) An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the ICAV from time to time direct.

26. DIRECTORS, OFFICES AND INTERESTS

- (a) The Directors may appoint one or more of their body to the office of managing Director or joint managing Director or to any other executive office under the ICAV (including, where considered appropriate, the office of chairman) on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may revoke any such appointment at any time.
- (b) A Director holding any such executive office shall receive such remuneration, whether in addition to, or in substitution for, his ordinary remuneration, as a Director and whether

by way of salary, commission, participation in profits or otherwise or partly in one way and partly in another, as the Directors may determine.

- (c) The appointment of any Director to the office of chairman or managing or joint managing Director shall determine automatically if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the ICAV.
- (d) The appointment of any Director to any other executive office shall not determine automatically if he ceases from any cause to be a Director unless the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the ICAV.
- (e) A Director may hold any other office or place of profit under the ICAV (except that of Auditor) in conjunction with his office of Director, and may act in a professional capacity to the ICAV, on such terms as to remuneration and otherwise as the Directors may arrange.
- (f) Any Director may continue to be or become a director, managing director, manager or other officer or member of any company promoted by the ICAV or in which the ICAV may be interested, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or member of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to directors, managing directors, managers or other officers of such company).
- (g) Subject to the provisions of the ICAV Act, and provided that he has disclosed to the Directors the nature and extent of any direct or indirect interest of his, a Director notwithstanding his office:-
 - (i) may be a party to, or otherwise interested in, any transaction or arrangement with the ICAV or in which the ICAV is interested; and
 - (ii) shall not be accountable, by reason of his office, to the ICAV for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- (h) No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the other ICAV in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the ICAV for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established. The nature of a Director's interest must be declared by him at the meeting of the Directors at which the question of entering into the contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement at the next meeting of the Directors held after he became so interested, and

in a case where the Director becomes interested in a contract or arrangement after it is made, at the first meeting of the Directors held after he becomes so interested.

- (i) A copy of every declaration made and notice given under this Clause shall be entered within three (3) days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or Member at the registered office of the ICAV and shall be produced at every general meeting of the ICAV and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.
- (j) For the purposes of this Clause:-
 - (i) a general notice given to the Directors by a Director to the effect that he is a member of a specified Irish collective asset management vehicle or a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that Irish collective asset management vehicle, company or firm, or he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him within the meaning of section 77 of the ICAV Act shall be deemed to be a sufficient declaration of interest in relation to any such contract **PROVIDED HOWEVER** that no such notice shall be of effect unless either it is given at a meeting of the Directors or the Director takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given;
 - (ii) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
 - (iii) a Director shall not be required to declare his interest where that interest cannot reasonably be regarded as likely to give rise to a conflict with the interests of the ICAV.
- (k) Save as otherwise provided by this Instrument of Incorporation, a Director shall not vote at a meeting of the Directors or a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material or a duty which conflicts or may conflict with the interests of the ICAV. Unless otherwise resolved by the Directors, a Director shall not be counted in the quorum present at a meeting in relation to any such resolution on which he is not entitled to vote.
- (l) A Director shall be entitled (in the absence of some other material interest than is indicated below) to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:-
 - (i) the giving of any security, guarantee or indemnity to him in respect of money lent by him to the ICAV or any of its Subsidiaries or Associated Companies or obligations incurred by him at the request of or for the benefit of the ICAV or any of its Subsidiaries or Associated Companies;
 - (ii) the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the ICAV or any of its Subsidiaries or Associated Companies for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;

- (iii) any proposal concerning any offer of shares or other securities of or by the ICAV or any of its Subsidiaries or Associated Companies for subscription, purchase or exchange in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; or any proposal concerning any other ICAV, body corporate, company, or trust, partnership or other body of persons in which he is or is to be interested, directly or indirectly and whether as an officer, shareholder, employee or otherwise.
- (m) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the ICAV such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not otherwise debarred from voting) shall be entitled to vote (and be counted in the quorum) in respect of each resolution, except that concerning his own appointment.
- (n) If a question arises at a meeting of Directors or of a committee of Directors as to the materiality of a Director's interest or as to the right of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question may be referred, before the conclusion of the meeting, to the chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive.
- (o) For the purpose of this Clause, an interest of a person who is the spouse or a minor child of a Director shall be treated as an interest of the Director and, in relation to an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.
- (p) The ICAV by Ordinary Resolution may suspend or relax the provisions of this Clause to any extent or ratify any transaction not duly authorised by reason of a contravention of this Clause.

27. POWERS OF DIRECTORS

- (a) The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not by the ICAV Act, by the Rules or hereby required to be exercised by the ICAV in general meeting, subject, nevertheless, to the provisions of the ICAV Act, to the Rules and to the regulations herein contained being not inconsistent with the aforesaid regulations as may be prescribed by the ICAV in general meeting, but no regulations made by the ICAV in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulations had not been made. The general powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by this or any other Clause.
- (b) All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments drawn on the ICAV, and all other receipts for moneys paid to the ICAV shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors from time to time shall by resolution determine.
- (c) Subject to the limits and conditions set forth in the AIFMD Regulations and in the Prospectus and subject to the provisions of this Instrument of Incorporation, the Directors may exercise all the powers of the ICAV to invest the ICAV's assets. The Directors may exercise all the powers of the ICAV to invest all or any funds of the

ICAV as authorised by this Instrument of Incorporation. The Directors may establish Subsidiaries with the prior approval of, and subject to the conditions imposed by, the Central Bank, including restrictions on the Subsidiary acting other than under the control of the ICAV and restrictions on any person or entity other than the ICAV holding shares in the Subsidiary.

- (d) The Directors may authorise the redemption of shares in connection with any equalisation arrangements concerning the calculation of performance fees as set out in the Prospectus.

28. BORROWING AND INVESTMENT POWERS

Subject to the limits and conditions set forth in the ICAV Act and in the Prospectus for a Sub- Fund or otherwise laid down by the Central Bank and subject to the provisions of this Instrument of Incorporation (including, without limitation, Clause 29(j) hereof), the Directors may exercise all the powers of the ICAV to make and dispose of Investments, borrow money, (including the power to borrow for the purpose of repurchasing shares) and hypothecate, mortgage, charge or pledge its undertaking, property, and assets or any part thereof, whether outright or as collateral security for any debt, liability or obligation of the ICAV.

29. PROCEEDINGS OF DIRECTORS

- (a) The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
- (b) The quorum necessary for the transaction of business of the Directors may be fixed by the Directors and, unless so fixed at any other number, shall be two.
- (c) The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with the provisions hereof, the continuing Directors or Director may act for the purpose of filling vacancies in their number or of summoning general meetings of the ICAV, but not for any other purpose. If there be no Directors or Director able or willing to act, then any two Members may summon a general meeting for the purpose of appointing Directors.
- (d) The Directors may from time to time elect or remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.
- (e) The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there be no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman be not present within five (5) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.
- (f) A resolution in writing (in electronic form or otherwise) signed (whether by Electronic Signature, Advanced Electronic Signature or otherwise approved by the Directors) by all the Directors for the time being entitled to receive notice of a meeting of the Directors and to vote thereat shall be as valid and effectual as a resolution passed at

a meeting of the Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors and for the purposes of the foregoing, signature by any alternate Director shall be as effective as the signature of the Director by whom he is appointed. A resolution in writing shall be deemed to have been signed in the country or place where the last signatory to sign the resolution in writing (in electronic form or otherwise) executes such resolution.

- (g) A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.
- (h) The Directors may delegate any of their powers to committees consisting of such of their members as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Clause 29(b) and shall be governed by the provisions hereof regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- (i) The Directors may, whether by standing resolution or otherwise, delegate their powers relating to the issue and redemption of shares and the calculation of the Net Asset Value of the shares, the declaration of dividends and all management and administrative duties in relation to the ICAV to the Administrator or to any duly authorised Officer or other person subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- (j) The Directors may delegate their powers relating to the management of the ICAV's assets to the AIFM, the Investment Manager or its or their sub-delegates or to any duly authorised Officer or other person, subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- (k) All acts done by any meeting of Directors, or of a committee of Directors or by any person authorised by the Directors shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or authorisation of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- (l) The Directors shall cause minutes to be made of:-
 - (i) all appointments of officers made by the Directors;
 - (ii) the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
 - (iii) all resolutions and proceedings of all general meetings of the ICAV and of the Directors and of committees of Directors.
- (m) Any such minutes as are referred to in Clause 29(l) hereof, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of the proceedings.
- (n) Any Director may participate in a meeting of the Directors or any committee of the Directors by means of a conference telephone or other telecommunication equipment by

means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting.

30. **SECRETARY**

The Secretary shall be appointed by the Directors for such term, at such remuneration and on such conditions as they think fit and may be removed by the Directors. Anything required or authorised to be done by the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by any assistant or deputy secretary or if there is no assistant or deputy secretary capable of acting, by any officer of the ICAV authorised generally or specially in that behalf by the Directors **PROVIDED THAT** any provisions hereof requiring or authorising anything to be done by a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

31. **THE SEAL AND AUTHORISED SIGNATORIES**

- (a) The ICAV shall not be required to have a common seal, but may, at the absolute discretion of the Directors, provide itself with a common seal. Documents shall have the same effect as if executed under the common seal of the ICAV if executed by the ICAV and signed on behalf of the ICAV in accordance with the requirements of the ICAV Act.
- (b) To the extent that the ICAV has a common seal, the name of the ICAV shall be engraved on the seal in legible characters and the Directors shall provide for the safe custody of the seal of the ICAV.
- (c) The Directors may from time to time as they think fit appoint one or more persons as authorised signatories of the ICAV for the purposes of signing and/or executing documents and for such other purposes as are provided for in the resolution, power of attorney, authorised signatory list or other authorisation granted by the Directors.

32. **DIVIDENDS**

- (a) The Directors may from time to time as they think fit pay such dividends on shares of the ICAV as appear to the Directors to be justified, subject to any policy statement and procedures in relation to dividends for the relevant Sub-Fund set forth in the Prospectus.
- (b) Subject to any policy statement and procedures in relation to dividends for the relevant Sub-Fund set forth in the Prospectus, the amount available for distribution in respect of any series of shares in any Accounting Period shall be a sum, the calculation of which shall be set out in the Supplement for the relevant Sub-Fund, or a sum equal to the aggregate of the net income received by the ICAV in respect of any series of shares (whether in the form of dividends, interest or otherwise and including realised and unrealised capital gains less realised and unrealised capital losses during the Accounting Period) calculated in accordance with the following:-
 - (i) addition or deduction of a sum by way of adjustment to allow for the effect of sales or redemptions, cum or ex-dividend;
 - (ii) addition of a sum representing any interest or dividend or other income accrued but not received by the relevant Sub-Fund at the end of the Accounting Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous

Accounting Period) interest or dividends or other income accrued at the end of the previous Accounting Period;

- (iii) addition of the amount (if any) available for distribution in respect of the last preceding Accounting Period but not distributed in respect thereof;
 - (iv) addition of a sum representing the estimated or actual repayment of tax resulting from any claims in respect of corporation tax relief or double taxation relief or otherwise;
 - (v) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income of the ICAV;
 - (vi) deduction of a sum representing participation in income paid upon the cancellation of shares during the Accounting Period;
 - (vii) deduction of such sum as the ICAV may think appropriate in respect of any of the expenses provided in Clause 2 hereof. **PROVIDED ALWAYS THAT** the ICAV shall not be responsible for any error in any estimates of corporation tax repayments or double taxation relief expected by way of taxation or of income receivable and, if the same shall not prove in all respects correct, the Directors shall ensure that any consequent deficiency or surplus shall be adjusted in the Accounting Period in which a further or final settlement is made of such tax repayment or liability or claim to relief or the amount of any such estimated income receivable is determined, and no adjustment shall be made to any dividend previously declared; and
 - (viii) deduction of any amounts declared as a distribution but not yet distributed.
- (c) The Directors may also declare such dividends on the shares or on any series of shares from the capital attributable to the relevant series provided appropriate disclosure is made in the Prospectus in accordance with the requirements of the Central Bank.
 - (d) The Directors with the sanction of a Special Resolution of the Members of a series of shares may distribute in kind among Members of such series by way of dividend or otherwise any of the assets of the relevant series.
 - (e) Shares shall qualify for dividends in such manner as may be determined by the Directors.
 - (f) Any declaration of a dividend by the Directors on any series of shares may specify that the same shall be payable to the persons registered as the Members at the close of business on a particular date, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend, of transferors and transferees of shares.
 - (g) The ICAV may transmit any dividend or other amount payable in respect of any share by wire transfer or other electronic means or by cheque or warrant sent by ordinary post to the registered address of the Member, or, in the case of joint holders, to the person whose name and address appears first on the Register of Members and shall not be responsible for any loss arising in respect of such transmission.
 - (h) No dividend or other amount payable to any holder of shares shall bear interest against the ICAV. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the ICAV until claimed.

Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a share into a separate interest bearing account shall not constitute the ICAV a trustee in respect thereof. Any dividend unclaimed after six years from the date when it first became payable shall be forfeited automatically, without the necessity for any declaration or other action by the ICAV.

- (i) In the event that the amount payable to a Member as a dividend is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member, the ICAV shall be entitled to retain such dividends for the benefit of the relevant Member until such time as the amount payable to the Member is not exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member. Payment by the ICAV of any retained dividend into a separate account shall not constitute the ICAV a trustee in respect thereof.
- (j) At the option of any Members, the Directors may apply all dividends declared on the shares of any series held by such Member in the issue of additional shares of that series in the ICAV to that Member at the Net Asset Value obtaining when such dividends are declared and on such terms as the Directors from time to time may resolve, provided, however, that any Member shall be entitled to elect to receive a cash dividend in respect of the shares held by that Member.
- (k) The Directors may provide at their absolute discretion that Members will be entitled to elect to receive *in lieu* of any dividend (or part thereof) an issue of additional shares of the same series as those in respect of which the dividend is declared in a Sub-Fund credited as fully paid. In any such case the following provisions shall apply:-
 - (i) the number of additional shares (including any fractional entitlement) to be issued *in lieu* of any amount of dividend shall be equal in value to the amount of such dividend at the date the dividend was declared;
 - (ii) the dividend (or that part of the dividend in respect of which a right of election has been accorded) shall not be payable on shares in respect of which the share election has been duly exercised (the “**Elected Shares**”), and *in lieu* thereof additional shares shall be issued to the holders of the Elected Shares on the basis determined as aforesaid and for such purpose the Directors shall capitalise a sum equal to the aggregate value of the dividends in respect of which elections have been made and apply the same in paying up in full the appropriate amount of unissued shares;
 - (iii) the additional shares so issued shall rank *pari passu* in all respects with the fully paid shares then in issue save only as regards participation in the relevant dividend (or share election *in lieu*);
 - (iv) the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provision as they think fit in the case of shares becoming distributable in fractions so that fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV; and
 - (v) the Directors may on any occasion determine that rights of election shall not be made available to any Member with registered addresses in any territory where in the absence of a registration statement or other special formalities the circulation of an offer of rights of election would or might be unlawful, and in such event the provisions aforesaid shall be read and construed subject to such determination.

- (l) Where the ICAV proposes to pay a distribution to a Member, it shall be entitled to deduct from the distribution such amount as may be necessary to discharge the ICAV's liability to tax in respect of such distribution and shall arrange to discharge the amount of tax due.
- (m) Where a dividend is declared in or around the same time as a Capital Call is made, the ICAV may offset the amount payable to a Member as a dividend against the amount to be drawn down and the Member, at the absolute discretion of the Directors, shall only be required to forward the balancing amount to the relevant Sub-Fund to satisfy the Capital Call and such offset amount shall be treated as a dividend for purposes of calculating a Member's uncalled Capital Commitment and shall be eligible for recall as provided in this Instrument of Incorporation.

33. **UNTRACED MEMBERS**

- (a) The ICAV shall be entitled to redeem any share of a Member or any share to which a person is entitled by transmission and to forfeit any dividend which is declared and remains unpaid for a period of six years if and provided that:-
 - (i) for a period of six years no cheque or confirmation of ownership of shares sent by the ICAV through the post in a pre-paid letter addressed to the Member or to the person entitled by transmission to the share at his address on the Register of Members or the last known address given by the Member or the person entitled by transmission to which cheques or confirmations of ownership of shares are to be sent has been cashed or acknowledged and no communication has been received by the ICAV from the Member or the persons entitled by transmission (provided that during such six year period at least three dividends shall have become payable in respect of such share);
 - (ii) at the expiration of the said period of six years by notice sent by pre-paid letter addressed to the Member or to the person entitled by transmission to the share at his address on the Register of Members or to the last known address given by the Member or the person entitled by transmission or by advertisement in a national daily newspaper published in Ireland or in a newspaper circulating in the area in which the address referred to in Clause 33(a)(i) is located the ICAV has given notice of its intention to redeem such share;
 - (iii) during the period of three months after the date of the advertisement and prior to the exercise of the power of redemption the ICAV has not received any communication from the Member or person entitled by transmission; and
 - (iv) if the shares are quoted on a stock exchange the ICAV has first given notice in writing to the appropriate section of such stock exchange of its intention to redeem such share, if it is required to do so under the rules of such stock exchange.
- (b) The ICAV shall account to the Member or to the person entitled to such share for the net proceeds of such redemption by carrying all moneys in respect thereof to a separate interest bearing account which shall be a permanent debt of the ICAV and the ICAV shall be deemed to be a debtor and not a trustee in respect thereof for such Member or other person.

34. ACCOUNTS

- (i) The Directors shall cause to be kept such books of account as are necessary in relation to the conduct of the ICAV's business and as are required by the ICAV Act.
- (ii) The books of account shall be kept at the registered office, or at such other place or places as the Directors shall think fit, and shall at all reasonable times be open to inspection by the Directors, the Secretary and by those persons entitled pursuant to the ICAV Act to inspect the accounting records of the ICAV.
- (iii) The ICAV's financial statements shall be prepared in accordance with such general accepted accounting practice in Ireland, international financial reporting standards or an alternative body of accounting standards as the Directors may determine in accordance with the ICAV Act.
- (iv) A balance sheet, including every document required by law to be annexed to it, and a profit and loss account of the ICAV shall be made out as at the end of each financial year of the ICAV as determined by the Directors from time to time and shall be audited by the Auditors, and such balance sheet shall contain a general summary of the assets and liabilities of the ICAV. The balance sheet shall be accompanied by a report of the Directors as to the state and condition of the ICAV, and the amount (if any) which they have carried or propose to carry to reserve, together with a profit and loss account. The balance sheet of the ICAV and the report of the Directors and the profit and loss account shall be signed on behalf of the Directors by at least two of the Directors. An Auditors' report shall be attached to the balance sheet of the ICAV.
- (v) Once at least in every year the Directors shall cause to be prepared an Annual Report relating to the management of the ICAV. The Annual Report shall include the balance sheet and profit and loss account duly audited by the Auditors and the Directors' report and the Auditors' report as provided for in Clause 34(c) and shall be in a form approved by the Central Bank and shall contain such information required by it. There shall be attached to such Annual Report such additional information and reports as the Central Bank may specify.
- (vi) A copy of the Annual Report including the balance sheet (including every document required by law to be annexed thereto) together with a copy of the Directors' report and the Auditors' report shall be sent by the ICAV (by post or where a Member so elects, by electronic mail or any other means of Electronic Communication, provided that in the case of those documents sent by electronic mail or any other means of Electronic Communication, such documents shall be sent to the address of the recipient notified to the ICAV by the recipient for such purposes or shall be made available on the website of the ICAV) to the Members and to every person entitled under the ICAV Act to receive them and if any of the shares are quoted on any stock exchange, the required number of copies of these documents shall be forwarded at the same time to such stock exchange.
- (vii) The Auditors' certificate appended to the Annual Report and statement referred to therein shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined together with

the books and records of the ICAV in relation thereto and that the Auditors have obtained all the information and explanations they have required and the Auditors shall report whether the accounts are in their opinion properly drawn up in accordance with such books and records and present a true and fair view of the state of affairs of the ICAV and whether the accounts are in their opinion properly drawn up in accordance with the provisions hereof.

- (viii) The information required by Regulation 24 of the AIFMD Regulations shall be disclosed by way of a report to Members or other means permitted under, and at the frequency required by, AIFMD.
- (ix) Separate accounts may be prepared and presented in respect of a Sub-Fund or Sub-Funds and all references to the ICAV in this Clause 34 shall be read as, where appropriate, referring to the Sub-Fund or Sub-Funds in respect of which the separate accounts are to be prepared.

35. **AUDIT**

- (a) The appointment and removal of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the ICAV Act.
- (b) The ICAV shall, at each annual general meeting, appoint Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting in accordance with the ICAV Act.
- (c) The first Auditors shall be appointed by the Directors at any time before the first general meeting and shall hold office until the conclusion of that meeting.
- (d) In the event that the ICAV does not hold an annual general meeting, the Directors shall appoint the Auditors.
- (e) On the date on which the holding of an annual general meeting is dispensed with in accordance with Clause 21(c), any Auditors appointed in accordance with Clause 35(c) or by the ICAV in accordance with Clause 35(b) cease to hold office and the Directors shall immediately reappoint the Auditors or appoint new Auditors.
- (f) The Directors, or the ICAV in general meeting, may fill a casual vacancy in the office of Auditors. While a vacancy in the office of Auditors continues, any surviving or continuing Auditors may continue to act.
- (g) A person, other than the retiring Auditors, shall not be capable of being appointed Auditors at an annual general meeting unless notice of an intention to nominate that person to the office of Auditors has been given by a Member to the ICAV not less than twenty eight (28) days before the annual general meeting and the Directors shall send a copy of any such notice to the retiring Auditors and the proposed replacement auditors and shall give notice thereof and of any representations made by the retiring auditors to the ICAV and its Members in accordance with Section 133 of the ICAV Act.
- (h) The remuneration of the Auditors appointed by the ICAV in general meeting shall be approved by the ICAV in general meeting or in such manner as the ICAV in general meeting may determine. The remuneration of the Auditors appointed by the Directors shall be approved by the Directors or the Central Bank.

- (i) The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- (j) The report of the Auditors to the Members on the audited accounts of the ICAV shall state whether in the Auditors' opinion the balance sheet and profit and loss account in their opinion give a true and fair view of the state of the ICAV's affairs and of its profit and loss for the period in question.
- (k) The ICAV shall furnish the Auditors with a list of all books kept by the ICAV and at all reasonable times shall afford to the Auditors the right of access to the books and accounts and vouchers of the ICAV. The Auditors shall be entitled to require from the Officers and employees of the ICAV such information and explanation as may be necessary for the performance of their duties.
- (l) The Auditors shall be entitled to attend any general meeting of the ICAV at which any accounts which have been examined or reported on by them are to be laid before the ICAV and to make any statement or explanations they may desire with respect to the accounts and notice of every such meeting shall be given to the Auditors in the manner prescribed for the Members.

36. NOTICES

- (a) Any notice or other document required to be given to, delivered, served upon or sent to a Member pursuant to this Instrument of Incorporation and/or the applicable law may be given to, delivered, served or sent to any Member by the ICAV by any of the following means:-
 - (i) personally;
 - (ii) by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to the Member at the Member's address as appearing in the Register of Members;
 - (iii) by sending it by courier to or leaving it at the Member's address appearing on the Register of Members;
 - (iv) subject to such Member's consent to electronic communications, by the ICAV sending it by email or other electronic means, in each case to an address or number supplied by such Member; or
 - (v) subject to such Member's consent to the use of the website, by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website and the place on the website where the document may be found).
- (b) Any notice or other document shall be deemed to have been given to, delivered, served upon or sent to any Member by the ICAV:-
 - (i) if sent by personal delivery, at the time of delivery;
 - (ii) if sent by post, 48 hours after it was put in the post;
 - (iii) if sent by courier, 24 hours after sending;
 - (iv) if sent by email or other electronic means, 12 hours after sending; or

- (v) if published as an electronic record on a website, 12 hours after it has been published;

and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post or sent by courier, email or by electronic means, or published on a website, as the case may be, in accordance with this Instrument of Incorporation.

- (c) Any requirement in this Instrument of Incorporation for the consent of a Member with regard to electronic communications and the use of a website shall be deemed to have been satisfied where the Member subscribes for or holds shares in the ICAV as the Member is bound by this Instrument of Incorporation as if they had been signed by such Member. The Member may at any time revoke such consent by requesting the ICAV to communicate with that Member in documented form; provided however, that this requirement to communicate in documented form shall not take effect until 30 days after written notice of the requirement is received by the ICAV.
- (d) In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed sufficient service on delivery to all joint holders.
- (e) Any notice or document sent by post to or left at the registered address of a Member or, with the consent of a Member, sent to the Member in electronic form by electronic means or by the use of a website, shall notwithstanding that such Member be then dead or bankrupt and whether or not the ICAV has notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on receipt by all persons interested (whether jointly with or as claiming through or under him) in the shares concerned and such notice shall be deemed to have been received by the Member twenty four hours after the time of posting or sending by electronic means.
- (f) The ICAV may establish an Electronic Proxy Scheme. Any Electronic Proxy Scheme shall require a Member appointing a proxy to complete a specified electronic form of proxy which shall be either signed by the Member using an Electronic Signature or completed using another form of electronic authentication or password in accordance with the requirements of the Electronic Commerce Act, 2000 or any other applicable law or regulation.

37. WINDING UP AND TERMINATION

- (a) All of the shares in the ICAV or all of the shares in a Sub-Fund or series may be redeemed by the ICAV in the following circumstances:-
 - (i) a majority of votes cast at a general meeting of the ICAV or the relevant Sub-Fund or series, as appropriate, approves the redemption of the shares;
 - (ii) if so determined by the Directors, provided that not less than 21 days' written notice, or such longer period as may be specified in the Prospectus, has been given to the holders of the shares of the ICAV or the Sub-Fund or the series, as appropriate, that all of the shares of the ICAV, the Sub-Fund or the series, as the case may be, shall be redeemed by the ICAV;
 - (iii) if no replacement Depositary shall have been appointed during the period of ninety (90) days commencing on the date the Depositary or any replacement

thereof shall have notified the ICAV of its desire to retire as Depositary or shall have ceased to be approved by the Central Bank; or

- (iv) if no replacement AIFM shall have been appointed during the period of ninety (90) days commencing on the date the AIFM or any replacement thereof shall have notified the ICAV of its desire to retire as AIFM or shall have ceased to be approved by the Central Bank.
- (b) The Directors shall have power to terminate any particular Sub-Fund on any Dealing Day falling six months after the first issue of shares in that Sub-Fund if the value of the net assets of that Sub-Fund amounts at such date to less than \$250,000,000 or the equivalent amount in the base currency of the relevant Sub-Fund. The Directors are also entitled to terminate any Sub-Fund with the sanction of a Special Resolution of the holders of the Shares relating to that Sub-Fund.
- (c) Where a redemption of shares would result in the number of shareholders falling below two or such other minimum number stipulated by statute or where a redemption of shares would result in the issued share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain pursuant to applicable law, the ICAV may defer the redemption of the minimum number of shares sufficient to ensure compliance with applicable law. The redemption of such shares will be deferred until the ICAV is wound up or until the ICAV procures the issue of sufficient shares to ensure that the redemption can be effected. The ICAV shall be entitled to select the shares for deferred redemption in such manner as it may deem to be fair and reasonable and as may be approved by the Depositary.
- (d) If the ICAV shall be wound up or dissolved the liquidator shall apply the assets of the ICAV in satisfaction of creditors' claims in such manner and order as he thinks fit provided always that in doing so, the liquidator shall comply with, and be bound by, the segregated liability provision contained in the ICAV Act and Clause 5 of this Instrument of Incorporation.
- (e) The assets of the ICAV available for distribution (after satisfaction of creditors' claims) amongst the Members shall be distributed *pro rata* to the holders of the shares of each series in the ICAV and shall be *pro rata* to the number of shares in that series held by them.
- (f) The assets available for distribution among the Members shall then be applied in the following priority:-
 - (i) first, in the payment to the Members of each Sub-Fund of a sum in the relevant Series Currency or in any other currency selected by the liquidator as nearly as possible equal (at a rate of exchange reasonably determined by the liquidator) to the Net Asset Value of the shares of such series held by such holders respectively as at the date of commencement of the winding up provided that there are sufficient assets available in the relevant Sub-Fund to enable such payment to be made. In the event that, as regards any series of shares, there are insufficient assets available in the relevant Sub-Fund to enable such payment to be made recourse shall be had to the assets of the ICAV not comprised within any of the Sub-Funds;
 - (ii) second, in the payment to the holders of the Subscriber Shares of sums up to the amount paid thereon (plus any interest accrued) out of the assets of the ICAV not comprised within any Sub-Funds remaining after any recourse thereto under paragraph (i) above. In the event that there are insufficient

assets as aforesaid to enable such payment in full to be made, no recourse shall be had to the assets comprised within any of the Sub-Funds;

- (iii) third, in the payment to the Members of any balance then remaining in the relevant Sub-Fund, such payment being made in proportion to the number of shares held; and
 - (iv) fourth, in the payment to the Members of any balance then remaining and not comprised within any of the Sub-Funds, such payment being made in proportion to the value of each Sub-Fund and within each Sub-Fund to the value of each series and in proportion to the Net Asset Value per share.
- (g) If the ICAV shall be wound up or dissolved (whether the liquidation is voluntary, under supervision or by the Court) the liquidator may, with the authority of an Ordinary Resolution of the ICAV, divide among the Members *pro rata* to the value of their shareholdings in the ICAV (as determined in accordance with Clause 17 herein) *in specie* the whole or any part of the assets of the ICAV or may make distributions *in specie* to any individual Member who so consents whether or not the assets shall consist of property of a single kind and may for such purposes value any class or classes of property in accordance with the valuation provisions in Clause 18. If a Member so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Member at the expense of such Member. The price obtained by the ICAV may be different from the price at which the investments were valued when determining the Net Asset Value and none of the ICAV, the Administrator, the AIFM, the external valuer and/or the Investment Manager shall be liable for any difference arising. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, but not so that any Member shall be compelled to accept any asset in respect of which there is a liability. The Subscriber Shares do not entitle the holders to participate in the dividends or net assets of any Sub-Fund.
- (h) A Sub-Fund may be wound up as if the Sub-Fund were a separate Irish collective asset-management vehicle but, in any such case, the appointment of the liquidator or any provisional liquidator and the powers, rights, duties and responsibilities of the liquidator or any provisional liquidator shall be confined to the Sub-Fund or Sub-Funds which is or are being wound up. All references to the ICAV in this Clause 37 shall be read as, where appropriate, referring to the Sub-Fund or Sub-Funds which is or are being wound up.

38. INDEMNITY

- (a) The ICAV shall indemnify its Directors, Officers, employees and any person who serves at the request of the ICAV as a director, officer, employee of another company, partnership, joint venture, trust or other enterprise as follows:-
- (i) every person who is or has been a Director, Officer, or employee of the ICAV and every person who serves at the ICAV's request as Director, Officer or employee of another company, partnership, joint venture, trust or other enterprise shall be indemnified by the ICAV to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any debt, claim, action, demand, suit, proceeding, judgment, decree, liability or obligation of any kind in which he becomes involved as a party or otherwise by virtue of his being or having been a Director, Officer or employee of the ICAV or of another company, partnership, joint venture, trust or other enterprise at the request of the ICAV

and against amounts paid or incurred by him in the settlement thereof except where any of the foregoing is attributable to any negligence, default, breach of duty or breach of trust on the part of such Director, Officer or employee;

- (ii) the words “claim”, “action”, “suit” or “proceedings” shall apply to all claims, actions, suits or proceedings (civil, criminal, administrative, legislative, investigative or other, including appeals) and shall include, without limitation, legal fees, costs, judgments, amounts paid in settlement, fines, penalties and other liabilities;
 - (iii) the rights of indemnification herein provided may be insured against by policies maintained by the ICAV, shall be severable, shall not affect any other rights to which any Director, Officer or employee may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, Officer or employee and shall ensure to the benefit of the heirs, executors and administrators of such a person;
 - (iv) no indemnification shall be provided hereunder unless an independent legal adviser to the ICAV has confirmed in a written opinion that the person to be indemnified is entitled to an indemnity under applicable law; and
 - (v) the ICAV may make advances of expenses incurred in the defence of any claim, action, suit or proceedings against any person whom the ICAV is obliged to indemnify pursuant to this Clause 38(a).
- (b) The ICAV may indemnify the AIFM, any Investment Manager, Sub-Investment Manager, Administrator, adviser, service provider, delegate and any agent of the ICAV and any directors, officers, managers, partners, members, shareholders, principals, investment professionals, employees, advisors, consultants, representatives or other agents and related persons and legal representatives of the foregoing to the extent permitted by law and the provisions of the agreement providing for such indemnity.
 - (c) The Depositary shall be entitled to such indemnity from the ICAV upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the costs thereof as shall be provided under its agreement with the ICAV, provided that no such indemnity shall arise as a result of any liability that the Depositary assumes in the Depositary Agreement.
 - (d) The ICAV, the AIFM, the Investment Manager, the Sub-Investment Manager, the Administrator and the Depositary shall each be entitled to rely absolutely on any declaration received from a Member or his agent as to the residence or otherwise of such Member and shall not incur liability in respect of any action taken or thing suffered by any of them in good faith in reliance upon any paper or document believed to be genuine and to have been sealed or signed by the proper parties nor be in any way liable for any forged or unauthorised signature on or any common seal affixed to any such document or for acting on or giving effect to any such forged or unauthorised signature or common seal but shall be entitled, though not bound, to require the signature of any person to be verified by a banker, broker or other responsible person or otherwise authenticated to its or their satisfaction.
 - (e) The ICAV, the AIFM, the Investment Manager, the Sub-Investment Manager, the Administrator and the Depositary shall each incur no liability to the Members for

complying with any present or future law or regulation made pursuant thereto, or any decree, order or judgment of any court, or any request, announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise). If for any reason it becomes impossible or impracticable to carry out any of the provisions hereof none of the ICAV, the AIFM, the Investment Manager, the Administrator or the Depositary shall be under any liability therefor or thereby. This Clause shall not, however, exempt the ICAV, the AIFM, the Investment Manager, the Administrator or the Depositary from any liability any of them may incur as a result of a failure to adhere to their obligations as set out in the agreements governing their appointment or any liability incurred as a result of any fraud on the part of the ICAV, the AIFM, the Investment Manager, the Administrator or the Depositary.

- (f) For the avoidance of doubt no Director shall be liable for the acts or omissions of any other Director.
- (g) Where the law of a Third Country requires that certain financial instruments are held in custody by a local entity and there are no local entities that satisfy the requirements specified in Regulation 22(11)(b)(iv)(II) of the AIFMD Regulations, the Depositary may discharge itself of liability provided that the conditions of Regulation 22(14) of the AIFMD Regulations are met.

39. DESTRUCTION OF DOCUMENTS

- (a) The ICAV may destroy:-
 - (i) any dividend mandate or share allotment request form or any variation or cancellation thereof or any notification of change of name or address at any time after the expiry of two years from the date such mandate, request, variation, cancellation or notification was recorded by the ICAV;
 - (ii) any instrument of transfer of shares which has been registered at any time after the expiry of six (6) years from the date of registration thereof; and
 - (iii) any other document on the basis of which an entry in the Register is made at any time after the expiry of ten (10) years from the date an entry in the Register of Members was first made in respect of it;

and it shall conclusively be presumed in favour of the ICAV that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the ICAV **PROVIDED ALWAYS THAT:-**

- (i) the foregoing provisions of this Clause shall apply only to the destruction of a document in good faith and without express notice to the ICAV that the preservation of such document was relevant to a claim; nothing contained in this Clause shall be construed as imposing upon the ICAV any liability in respect of the destruction of any such document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and
- (ii) references in this Clause to the destruction of any document includes references to its disposal in any manner.

40. **SEVERABILITY**

If any term, provision, covenant or restriction of this Instrument of Incorporation is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, the remainder of the terms, provisions, covenants and restrictions of this Instrument of Incorporation shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

41. **ALTERATION TO INSTRUMENT OF INCORPORATION**

- (a) No alteration to the Instrument of Incorporation and no change in the name of the ICAV shall be made without obtaining the approval of the Central Bank.
- (b) No alteration to the Instrument of Incorporation shall be made unless:-
 - (i) the alteration has been approved by Ordinary Resolution; or
 - (ii) the Depositary has certified in writing that the amendment does not:-
 - (A) prejudice the interests of the Members; and
 - (B) relate to any such matter as may be specified by the Central Bank as one in the case of which an alteration may be made only if approved by the Members.
- (c) For the purposes of Clause 41(b), a change in the name of the ICAV does not constitute an alteration to the Instrument of Incorporation.

WE, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into an ICAV in pursuance of this Instrument of Incorporation, and we agree to take the number of shares in the capital of the ICAV set opposite our respective names

Names, addresses and descriptions	Number of Shares of Subscribers
--	--

Clifton Fund Consulting Limited	
--	--

One

Body Corporate

Director/ Authorised Signatory
Name:

Dated:

Witness to the above signatures: -

Signature:
Name:
Address:

Clifton Directors Limited	
----------------------------------	--

One

Body Corporate

Director/ Authorised Signatory
Name:

Dated:

Witness to the above signatures: -

Signature:
Name:
Address:

**IRISH COLLECTIVE ASSET-
MANAGEMENT VEHICLES ACT 2015**

INSTRUMENT OF INCORPORATION

**(AS AMENDED BY WRITTEN
RESOLUTION DATED 27 SEPTEMBER
2017)**

OF

**BROOKFIELD INFRASTRUCTURE
PARTNERS ICAV**

**AN UMBRELLA FUND WITH
SEGREGATED LIABILITY BETWEEN
SUB-FUNDS**

**McCann
FitzGerald
Riverside One
Sir John
Rogerson's Quay
Dublin 2**