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IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLES ACT 2015

NTR SUSTAINABLE INFRASTRUCTURE FUNDS ICAV

AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS

INSTRUMENT OF INCORPORATION

(as amended by a Special Resolution passed on 14 December 2018)

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IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLES ACT 2015

INSTRUMENT OF INCORPORATION

of

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PART A

1. The name of the ICAV is **NTR SUSTAINABLE INFRASTRUCTURE FUNDS IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE**.
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 Shareholders 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 the following powers:
 - (1) 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 subsidiary or 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;
 - (2) 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;
 - (3) to employ, utilise or invest in derivative instruments (including, but not limited to, power price hedging transactions) 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;

- (4) to purchase for the account of a Sub-Fund by subscription or transfer for consideration, shares of any Class or Classes 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;
- (5) to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock obligations or other securities;
- (6) 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;
- (7) 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;
- (8) to make, draw, accept, endorse, issue, discount, and otherwise deal with promissory notes, bills of exchange, cheques, letters of credit, and other notes;
- (9) 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;
- (10) 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;
- (11) 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;
- (12) 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;
- (13) 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;
- (14) to establish subsidiary companies and to promote any such subsidiary company or other 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 to facilitate the business of the ICAV and for that purpose to acquire and hold investments on behalf of the ICAV and to promote any subsidiary or other company;

- (15) 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 class 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;
- (16) 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;
- (17) to lend the securities and other assets of the ICAV, including any cash, in accordance with the requirements of the Central Bank;
- (18) 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;
- (19) 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 and/or, in accordance with the requirements of the Central Bank, any subsidiary of the ICAV;
- (20) 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;
- (21) to distribute either upon a distribution of assets or division of profits among the Shareholders 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;
- (22) 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;

- (23) to procure the ICAV to be registered or recognised in any foreign country, dependency or place;
- (24) 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;
- (25) 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;
- (26) 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;
- (27) 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 Shareholders *pro rata* to their shareholding in the Sub-Fund; and
- (28) 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 Shareholders 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 Shareholder 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

(a) 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 or of any Sub-Fund 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”	the person appointed in accordance with the requirements of the Central Bank to provide administration, registrar and transfer agency services to the ICAV;
“Advanced Electronic Signature”	the meaning given to that expression in the Electronic Commerce Act, 2000;
“Affiliate” and “Affiliates”	with respect to a person, any other person(s) that either directly or indirectly control(s), is controlled by or is under common control with the first person;
“Aggregate Commitments”	the aggregate amount, at any time, of the Commitments of all Shareholders;
“AIF”	an alternative investment fund as defined in the AIFMD Regulations;
“AIFM”	the person appointed in accordance with the requirements of the Central Bank as the alternative investment fund manager of the ICAV as defined in the AIFMD Rules;
“AIFM Agreement”	the agreement between the AIFM and the ICAV, as the same may be amended from time to time, pursuant to which the AIFM has been appointed as AIFM of the ICAV;
“AIFMD”	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers;
“AIFMD Regulations”	the European Communities (Alternative Investment Fund Managers) Regulations 2013 (S.I. 257 of 2013) as amended;
“AIFMD Rules”	the provisions of: (i) the AIFMD Level 2 Regulation; (ii) the relevant rules of the competent authority of the AIFM (including Rules or conditions from time to time made by the Central Bank pursuant to Section 27 of the ICAV Act and the AIFMD Regulations); and (iii) where applicable, those rules implementing AIFMD in any other EEA Shareholder state, in each case as may be altered, amended, added to or cancelled from time to time;

“AIF Rulebook”	the Central Bank’s rulebook in relation to AIFs, as same may be amended, consolidated, supplemented or substituted from time to time;
“AIV”	as defined in Clause 37 hereof;
“alternative investment fund manager”	an alternative investment fund manager within the meaning of AIFMD;
“Annual Report”	a report prepared in accordance with Clause 40 hereof;
“Auditors”	the auditors for the time being of the ICAV;
“Base Currency”	in relation to any Sub-Fund, Euros or such other currency as may be specified in the relevant Supplement;
“Business Day”	a business day as defined in the Prospectus;
“Call Notice”	in respect of each Sub-Fund, the meaning given to it in the Supplement;
“Central Bank”	the Central Bank of Ireland or any successor regulatory authority with responsibility for the authorisation and supervision of the ICAV;
“Class” or “Classes of Shares”	any class or sub-class of shares issued by the ICAV in respect of any Sub-Fund, details of which are set out in or as provided for in the relevant Supplement;
“Class Currency”	the currency of denomination of a Class;
“Clear Days”	in relation to the period of a notice, that period excluding the day when 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;
“Closing Date”	in respect of each Sub-Fund a date upon which the Directors accept applications to enter into Commitments or permit an existing Shareholder to increase its Commitment (including the First Closing Date and the Final Closing Date) as provided for in the relevant Supplement;
“Code”	the United States Internal Revenue Code of 1986, as amended;
“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 added to the subscription monies or deducted from the redemption monies;

“Commitment”	in respect of each Sub-Fund, the meaning given to it in the relevant Supplement;
“Companies Act”	the Companies Act 2014;
“Contribution”	monies advanced to the ICAV by a Shareholder in respect of a Subscription;
“Dealing Day”	such day or days as the Directors from time to time may determine in respect of each Sub-Fund as defined in the Prospectus, provided that in the event of a change in Dealing Day, reasonable notice thereof shall be given by the ICAV to each Shareholder of such Sub-Fund;
“Defaulting Shareholder”	the meaning given to it in the Prospectus;
“Depositary”	the person as may be appointed in accordance with the requirements of the Central Bank to provide depository services to the ICAV;
“Depositary Agreement”	any agreement for the time being subsisting between the ICAV, the AIFM and any Depositary relating to the appointment and duties of such Depositary;
“Designated Investment”	means an investment made by a Sub-Fund which, upon the advice of the AIFM, the ICAV determines: (i) has limited liquidity because of legal, contractual or other restrictions on its transfer or sale or which is not otherwise freely tradeable; or (ii) in respect of which no readily determinable valuation is available. It is acknowledged, however, that not all illiquid investments or investments which are difficult to value must be designated as such;
“Director” and “Directors”	the members of the board of directors of the ICAV, as the context requires, for the time being and any duly constituted committee thereof and any successors to such Shareholders as may be appointed from time to time;
“Duties and Charges”	all stamp and other duties, taxes, governmental charges, valuation fees, property management fees, agents fees, brokerage fees, bank charges, transfer fees, registration fees and other charges whether in respect of the constitution or increase of the assets or the creation, exchange, sale, purchase or transfer of shares or the purchase or proposed purchase of investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation, but not including Commission payable on the issue and/or redemption of shares;
“Electronic Communication”	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 Shareholders to appoint a proxy;
“Electronic Signature”	the meaning given to that expression in the Electronic Commerce Act, 2000;
“EU”	the European Union;
“€”	the euro;
“FATCA”	<p>(a) sections 1471 to 1474 of the Code or any associated regulations or other official guidance;</p> <p>(b) any intergovernmental agreement, treaty, regulation, guidance or other agreement between the Government of Ireland (or any Irish government body) and the US, UK or any other jurisdiction (including any government bodies in such jurisdiction and including the O.E.C.D.), entered into in order to comply with, facilitate, supplement, implement or give effect to the legislation, regulations or guidance described in paragraph (a) above; and</p> <p>(c) any legislation, regulations or guidance in Ireland that give effect to the matters outlined in the preceding paragraphs;</p>
“Final Closing Date”	in respect of each Sub-Fund, the meaning given to it in the relevant Supplement;
“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 in accordance with the relevant provisions of Clause 15;
“First Closing Date”	in respect of each Sub-Fund, the meaning given to it in the relevant Supplement;
“Fund Expenses”	as defined in Clause 2 hereof;
“ICAV”	NTR Sustainable Infrastructure Funds ICAV, an Irish collective asset-management vehicle incorporated under the ICAV Act;
“ICAV Act”	the Irish Collective Asset-Management Vehicles Act 2015, including any regulations made thereunder by ministerial order and any conditions that may from time to time be imposed thereunder by the Central Bank, whether by notice or otherwise, affecting the ICAV;
“Independent Director”	a director of the ICAV who is independent of the AIFM, the Investment Manager and the Portfolio Manager;

“Ineligible Subscriber”	an ineligible subscriber as described in the Prospectus;
“Instrument of Incorporation”	this document, as may be amended and/or restated from time to time in accordance with the requirements of the Central Bank;
“Investment”	a permitted investment as set out in the relevant Supplement for each Sub-Fund including but not limited to investments made in loans (including senior, unitranche, junior, second lien and mezzanine loans), loan receivables, funded or unfunded sub-participations, or any other kind of loan asset, corporate bonds, private debt, subordinated debt, collateralised loan obligation debt, non-performing loans, receivables, structured credit, sovereign debt, convertible bonds, related equities, preferreds, warrants, distressed debt and similar investments thereto;
“Investment Manager”	the investment fund manager of each Sub-Fund, as identified in the relevant Supplement;
“Investment Period”	in respect of each Sub-Fund, the meaning given to it in the relevant Supplement;
“investors”	shall be understood to mean existing Shareholders or prospective Shareholders as the context applies;
“in writing”	written, printed, or any other modes of representing or reproducing words in a visible form provided including in enduring electronic form;
“Irish Resident Shareholder”	the meaning given to it in the Prospectus;

“Knowledgeable Person”

an investor who may be granted an exemption from the Minimum Initial Subscription Amount in accordance with the requirements of the AIF Rulebook (subject to any derogations received therefrom), which as at the date of adoption of this Instrument of Incorporation means an investor who the ICAV is satisfied is:

- (a) a Director;
- (b) the AIFM or any entity within the AIFM’s group;
- (c) any entity appointed to provide investment, portfolio management or advisory services to the ICAV;
- (d) a director or a partner of the AIFM or a director or a partner of any entity appointed to provide investment, portfolio management or advisory services to the ICAV; and
- (e) an employee of the AIFM, or an employee of any entity appointed to provide investment, portfolio management or advisory services to the ICAV, who in the opinion of the Directors is an employee that is (i) directly involved in the investment activities of the ICAV; or (ii) a senior employee of the relevant entity and has experience in the provision of investment, portfolio management or advisory services,

and who in each case certifies in writing to the ICAV that the investor is (i) availing of the exemption from the minimum subscription requirement of at least €100,000 (or its currency equivalent) on the basis that the investor is a “Knowledgeable Person” as defined above; (ii) aware that each Sub-Fund is marketed solely to Qualifying Investors and is normally subject to a minimum subscription requirement of at least €100,000 (or its currency equivalent); (iii) aware of the risk involved in the proposed investment; and (iv) aware that inherent in such investment is the potential to lose all of the sum invested;

“MiFID”

Directive 2014/65/EC of the European Parliament and of the Council of 15 May 2014 and Regulation (EC) No 600/2014 of 15 May 2014 and any applicable implementing EU legislation, delegated acts (directives or regulations), technical standards and (where applicable) as implemented in each jurisdiction, including, without limitation, the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017) in Ireland and any and all Central Bank regulations, notices, guidance notes and codes of conduct issued thereunder or in connection therewith each as implemented, amended, supplemented and replaced from time to time

“Minimum Additional Subscription Amount”

in respect of each Sub-Fund such amount (if any) as the ICAV may from time to time determine as the minimum additional subscription amount required by each Shareholder for Shares of each Sub-Fund, Class or Series, as disclosed in the relevant Supplement;

“Minimum Holding”	in respect of each Sub-Fund such minimum number or minimum value of Shares of any Class and/or Series (if any) as the Directors may, from time to time, prescribe as the minimum permitted holding of Shares of that Class or Series, provided that the initial minimum holding by a Qualifying Investor in the ICAV as a whole shall not be less than the Minimum Initial Subscription Amount;
“Minimum Initial Subscription Amount”	in respect of each Sub-Fund such amount (if any) as the ICAV may from time to time determine as the minimum initial subscription amount required by each Shareholder for Shares of each Class or Series in a Sub-Fund as is specified in the relevant Supplement, provided that the Directors shall not accept applications for Shares from any Qualifying Investor (other than Knowledgeable Persons) unless the applicant’s initial subscription in the ICAV as a whole is equal to or greater than the minimum amount required by the Central Bank for the ICAV to maintain QIAIF status (which at the date of adoption of this Instrument of Incorporation is at least €100,000, or its foreign currency equivalent);
“Month” and “Months”	a calendar month or months;
“Net Asset Value”	the meaning given to it in the Prospectus;
“Net Investment Proceeds”	in relation to an Investment, all cash receipts arising from such Investment, including income, interest, return of principal, financing and re-financing fees, distributions in kind of securities, dividends and other receipts, disposal proceeds, default fees and maturity payments less any applicable fees, costs, expenses and other liabilities of the ICAV allocable to such Investment;
“Officer”	any Director of the ICAV or the Secretary;
“Ordinary Resolution”	a resolution of the ICAV, a Sub-Fund or of any Class of shares in the ICAV or a Sub-Fund, as appropriate: <ul style="list-style-type: none"> (a) passed by a simple majority of such Shareholders as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the ICAV and where a poll is taken shall mean a resolution passed by a simple majority of those votes validly cast on the poll; or (b) approved in writing by all of the Shareholders entitled to vote at a general meeting of the ICAV in one or more instruments each signed by one or more of the Shareholders and the effective date of the resolution so adopted shall be the date on which the instrument or the last of such instruments if more than one, is executed;

- “Portfolio Manager”** the person appointed to act as portfolio manager to each Sub-Fund as defined and disclosed in the relevant Supplement;
- “Principal”** such persons as may be designated as a Principal by the AIFM in its sole discretion from time to time;
- “Prospectus”** a prospectus from time to time issued by the ICAV in respect of the ICAV or any Sub-Fund thereof, including any Supplement thereto designed to be read and construed together with and to form part of the prospectus, as such may be amended, supplemented or replaced from time to time;
- “Qualified Majority Resolution”** in respect of each Sub-Fund, the meaning given to it in the relevant Supplement;
- “Qualifying Investor”** as set out in the AIF Rulebook, which as at the date of adoption of this Instrument of Incorporation means an investor who has certified in writing to the ICAV that it is:
- (a) a professional client within the meaning 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 it is an informed investor by providing confirmation (in writing) that (i) the investor has such knowledge of and experience in financial and business matters as would enable the investor properly to evaluate the merits and risks of the prospective investment; or (ii) 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; and
 - (d) aware of the risk involved in the proposed investment and that inherent in such investment is the potential to lose all of the sum invested.

Within the EEA, a Sub-Fund may only be marketed to professional investors as defined in AIFMD unless the EEA Shareholder state in question permits, under the laws of that EEA Shareholder state, the ICAV to be sold to other categories of investors and this permission encompasses investors set out in categories (b) and (c) in this definition of Qualifying Investor;

“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 Central Bank’s AIF Rulebook;
“Redemption Charge”	the meaning given to it in the relevant Supplement;
“Redemption Date”	in respect of a Sub-Fund, a date as of which a share is to be redeemed, as determined pursuant to the Prospectus;
“Redemption Price”	in respect of a Sub-Fund, the price per Share at which Shares are redeemed, calculated in the manner described in the Prospectus;
“Register of Directors’ Holdings”	the register in which the Directors’ holdings are listed;
“Register of Members”	the register in which the names of Shareholders of the ICAV and the shares held by them are recorded;
“Revenue Commissioners”	the Revenue Commissioners of Ireland;
“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;
“share” or “shares”	a share or shares in the ICAV or a Sub-Fund representing an interest in the ICAV or a Sub-Fund;
“Shareholder”	a person who is registered as the holder of shares in the Register of Members;
“Shareholder Committee”	the meaning given to it in Clause 32;
“Shareholder State”	a Shareholder state of the EU and, where the context requires, a Shareholder state of the European Economic Area;
“Special Resolution”	a special resolution of the ICAV, a Sub-Fund or of any Class of shares in the ICAV or a Sub-Fund, as appropriate, passed in accordance with the ICAV Act, being a resolution: <ul style="list-style-type: none"> (a) passed by a majority of not less than 75% of such Shareholders as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the ICAV of which notice specifying the intention to propose the resolution as a special resolution has been duly given and where a poll is taken a resolution passed by not less than 75% of the valid votes cast on the poll; or

(b) approved in writing by all of the Shareholders entitled to vote at a general meeting of the ICAV in one or more instruments each signed by one or more of the Shareholders and the effective date of the Special Resolution so adopted shall be the date on which the instrument or the last of such instruments if more than one, is executed;

“Sub-Fund”	a separate portfolio of assets which is invested in accordance with the investment objective and strategies set out in the relevant Supplement and to which all liabilities, income and expenditure attributable or allocated to such portfolio shall be applied and charged, and “Sub-Funds” means all or some of the Sub-Funds as the context requires or any other portfolios as may be established by the ICAV from time to time with the prior approval of the Central Bank;
“Subscriber Shares”	the initial issued share capital of two shares issued at €1 each for the purposes of incorporating the ICAV and initially designated as the subscriber shares;
“Subscription”	in respect of a Shareholder and a Call Notice, the amount of capital subscribed or required to be subscribed by that Shareholder for shares pursuant to such Shareholder’s Subscription Agreement and that Call Notice;
“Subscription Agreement”	the subscription agreement pursuant to which each Shareholder subscribes for Shares and which also specifies the Commitments agreed to be subscribed by such Shareholder;
“Subsequent Closing Date”	each additional Closing Date following the First Closing Date up to, and including, the Final Closing Date;
“Subsidiary”	any subsidiary within the meaning of section 2 of the ICAV Act;
“Substitute Shareholder”	as defined in Clause 19 hereof;
“Supplement”	any supplement to the Prospectus issued on behalf of the ICAV, in respect of a Sub-Fund, as amended, supplemented or replaced from time to time;
“Third Country”	a country other than a Shareholder State;
“Unfunded Commitment”	in respect of a Shareholder, such portion of its Commitment which has not been drawn down (or is deemed not to have been drawn down following a distribution hereunder or is deemed to have been added back to the Unfunded Commitment pursuant to the terms of the Prospectus);

- “U.S.” the United States of America, its territories and possessions, any State of the United States and the District of Columbia;
- “Valuation Day” in respect of each Sub-Fund, such day or days as the Directors may from time to time determine provided that:
- (i) a Valuation Day shall be on such Business Days as shall be set out in the relevant Supplement or such other Business Days as shall be determined by the Directors and notified to Shareholders;
 - (ii) in the event of any change in a Valuation Day reasonable notice thereof shall be given by the Directors to each Shareholder of the relevant Sub-Fund at such time and in such manner as the Depositary may approve;
 - (iii) the assets of the Sub-Fund shall be valued on each Valuation Day; and
 - (iv) there shall be at least one Valuation Day per year;
- “Valuation Point” such time on a Valuation Day as the Directors from time to time may determine for each Sub-Fund.
- (b) Reference to laws, regulations, rules and enactments and to articles and sections of laws, regulations, rules and enactments shall include reference to any modifications or re-enactments thereof for the time being in force.
- (c) 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 and *vice versa*;
 - (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 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; and
 - (vi) 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 and the requirements of the Central Bank, the business of the ICAV shall be commenced as soon after the registration and authorisation of the ICAV as the Directors think fit.
- (b) The ICAV's organisational expenses (as further described in the Prospectus) shall be payable by the ICAV or the Sub-Fund to which they relate and 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 establish or determine to lengthen or shorten.
- (c) Unless otherwise provided in the Prospectus, the ICAV may make calls on Unfunded Commitments to meet such costs, expenses and liabilities as further detailed in the Prospectus.
- (d) The ICAV or the Sub-Fund to which they relate shall also bear those costs, fees and expenses as described in the Prospectus or the relevant Supplement as being for the account of the ICAV or the Sub-Fund ("**Fund Expenses**").
- (e) At the absolute discretion of the Directors and in accordance with the requirements of the Central Bank, the fees and expenses of the ICAV or a Sub-Fund may be charged to capital, against current income, against realised capital gains and, if need be, against assets.

3. APPOINTMENT OF SERVICE PROVIDERS

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

The ICAV may also approve the appointment of a person to act as Investment Manager and a person to act as Portfolio Manager and the Directors may entrust to and confer upon the Depositary, the Administrator, the Investment Manager, the Portfolio Manager and the AIFM 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, 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.

- (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) The AIFM shall make available such information as may be required pursuant to the AIFMD Regulations to be made available to investors and prospective investors. The maximum annual fee payable to the AIFM, the Investment Manager and/or the Portfolio Manager out of the assets of a Sub-Fund shall not be increased without the approval of at least 75% of the outstanding shares in a Sub-Fund at a general meeting, where there is no opportunity for Shareholders to redeem or otherwise exit the relevant Sub-Fund, or without the approval of at least 50% of the outstanding shares in a Sub-Fund at a general meeting, where there is an opportunity for Shareholders 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.
- (e) 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.
- (f) 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.
- (g) The ICAV may appoint any person, firm or company, including without limitation, the AIFM, the Investment Manager and/or the Portfolio Manager, as an authorised signatory of the ICAV (an “**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/or a Sub-Fund.

4. **TERMINATION OF DEPOSITARY ARRANGEMENTS**

- (a) In the event of the Depositary desiring to retire or being removed from office the ICAV shall use its reasonable endeavours to find a person 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 person 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.
- (b) If within a period of ninety (90) days 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 43 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.
- (c) The Central Bank may replace the Depositary with another depositary in accordance with the AIF Rulebook and applicable law.

5. **TERMINATION OF AIFM ARRANGEMENTS**

- (a) The AIFM may only be removed from office by the Directors in accordance with the requirements of the Central Bank and the terms of: (i) the AIFM Agreement; (ii) the Prospectus; and (iii) this Clause 5.
- (b) With the approval of the Central Bank, the appointment of the AIFM may be terminated and a replacement alternative investment fund manager 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.
- (c) In the event of the AIFM desiring to retire or being removed from office or ceasing to be authorised as an alternative investment fund manager, the ICAV shall use reasonable endeavours to find an entity willing to act as alternative investment fund manager who must be authorised to act as alternative investment fund manager and upon doing so the ICAV shall appoint such entity to be alternative investment fund manager in place of the former alternative investment fund manager.
- (d) If within a period of 90 days (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 alternative investment fund manager 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 43 hereof.

- (e) The Central Bank may replace the AIFM with another alternative investment fund manager in accordance with the AIF Rulebook and applicable law.

6. **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 to enter into a Commitment for shares in the ICAV or may accept any application in whole or in part. Once a Commitment for shares has been accepted by the Directors (in whole or in part), the Directors shall issue shares in accordance with Clauses 10, 12, 13 and 14 hereof and in accordance with the terms of the Prospectus and the Subscription Agreement.
- (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.

7. THE SUB-FUNDS, CLASSES 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 classes of shares in the ICAV. With the approval of the Central Bank, the Directors from time to time may establish additional Sub-Funds and associated separate classes or series of shares on such terms as the Directors may resolve. The Sub-Funds may be open-ended, open-ended with limited liquidity or closed-ended Sub-Funds and shall be subject to the conditions set down by the Central Bank in relation to the relevant category of Sub-Fund. The ICAV may establish Classes which may be differentiated on the basis of Class Currency, subscription/redemption procedures, distribution policies or charging structure, hedging policies or other criteria disclosed in the Prospectus. The creation of further Classes 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 (including, without limitation, by applying weighted voting rights to certain Classes of shares) the voting rights attaching to any class of shares. In particular, and without prejudice to the generality of the foregoing, the Directors may issue one or more classes of shares the voting rights of which shall be restricted on the basis that the:
- (i) voting rights attaching to the shares of such Class or Classes will be weighted and/or limited to a certain percentage vis-à-vis total voting rights (or such voting rights as are eligible to be exercised) in respect of certain proposals that may be put to Shareholders in general meeting (e.g. in respect of the appointment or removal of Directors) or otherwise; or
 - (ii) 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 class 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 and in accordance with the requirements of the Central Bank, the Directors are hereby authorised from time to time to re-designate any existing class of shares in the ICAV and merge such class of shares with any other class of shares in the ICAV, **PROVIDED THAT** Shareholders in such class or classes are first notified by the ICAV and given the opportunity to have the shares redeemed. With the prior consent of the Directors, Shareholders may convert shares in one class of shares into shares of another class in the ICAV in accordance with the provisions of Clause 10 hereof.
- (d) Subject to Clause 7(c) hereof, for the purpose of enabling shares of one Class to be re-designated or converted into shares of another Class, the ICAV may take such action as may be necessary to vary or abrogate the rights attached to shares of one Class to be converted so that such rights are replaced by the rights attached to the other Class into which the shares of the original Class are to be converted

PROVIDED THAT the Shareholders in the affected Class or Classes have consented to the variation of their rights pursuant to a Qualified Majority Resolution.

- (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 any liabilities or claims against any other Sub-Fund and shall not be available for such purposes nor shall any Shareholder 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;
 - (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 Class 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 Classes 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) As a matter of Irish law, 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 7(g)(iii) shall be credited against any concurrent liability pursuant to the implied terms set out in Clause 7(g).
 - (i) Any asset or sum recovered by the ICAV pursuant to the implied terms set out in Clause 7(g) or by any other means whatsoever or wheresoever in the events referred to in Clause 7(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 plus, in the event that the obligation to restore to the Sub-Fund affected is identified within thirty days of its annual audit and has not been settled, interest chargeable from the date that the repayment obligation arose charged at Euribor plus four percent.
 - (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 Class of shares and each Sub-Fund.

8. **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, including in such manner and as set out in the Prospectus 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.

9. **CONFIRMATIONS OF OWNERSHIP AND REGISTERS**

- (a) A Shareholder 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 a Shareholder to be entered in the Register of Members, the Shareholder must have agreed to make the Minimum Commitment to the ICAV and have applied for or acquired shares (other than Subscriber Shares) to the value of not less than the Minimum Initial Subscription Amount and made the Contribution requested in the first Call Notice and must certify that it meets the Qualifying Investor criteria as set out in that chapter and certify that it is 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 Shareholder whose name appears in the Register of Members shall be entitled, at the Shareholder's request, to be issued with a written confirmation of ownership representing the number of shares held by him. Share certificates shall not be issued. To be entered on the Register of Members, Shareholders must be Qualifying Investors or Knowledgeable Persons 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 Shareholder upon request subject to delivery 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 electronically and/or digitally 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 Shareholder (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 Class held by him distinguishing each share by its number so long as the share has a number, the Sub-Fund and Class (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 Shareholder; and
- (iii) the date on which any person ceased to be a Shareholder;

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 Shareholders of the ICAV for the time being and the shares respectively held by them.
- (ii) The Register of Members shall be open to inspection by Shareholders and any person entitled to inspect it in accordance with the ICAV Act 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 Shareholder shall be entitled to inspect only the entry in the Register of Members relating to that Shareholder.

(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 two (2) hours in each day be allowed for inspection) by any Shareholder 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 9(j), 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 Shareholders in respect of shares already held by such Shareholders.
- (l) The Directors shall be entitled to charge a Shareholder such fee as the Directors from time to time may determine in respect of the cost of confirmations of ownership.

10. **ISSUE OF SHARES**

- (a) Subject as hereinafter provided on receipt by the ICAV of the following:-
 - (i) a 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 and currency as the ICAV from time to time may specify in the Prospectus, and a Call Notice;

the ICAV may issue such shares in such classes from time to time created by the ICAV 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 reasonable 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, save where shares are issued following a drawdown as described in Clause 14. The Directors may cease to offer shares in the ICAV for allotment or issue for a definite period or otherwise.

- (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) The Directors shall be entitled to issue fractional shares up to four decimal places (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 Class of shares shall be adjusted by the amount which such Fractional Share bears to an integral share of that Class of shares at the time of issue and any dividend payable on such Fractional Shares shall be adjusted in like manner.
- (e) The dates on which Subscriptions can be made, the procedure for the making of Subscriptions, the limitations and restrictions on Subscriptions (including persons who are Ineligible Subscribers) and the other provisions relating to Subscriptions shall be as set out in the Prospectus.

11. **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 Class (the “**Original Shares**”) may, with the prior consent of the Directors (which may be withheld for any or no reason), 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 Class (the “**New Shares**”) either existing or agreed to be brought into existence on terms hereinafter appearing:

- (a) 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 Initial Subscription

Amount or the Minimum Additional Subscription Amount, 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;

- (b) 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 Day shall be made on the Valuation Day next following the receipt of the Conversion Notice;
- (c) 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 Day referred to in paragraph (b) of this Clause 11;
- (d) 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:-

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

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 Day; and

TC = the transaction charge incurred in connection with the proposed transaction, which shall not in any event exceed 5% 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 Shareholder seeking to convert the shares.

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

12. PRICE PER SHARE

- (a) The price per share at which the shares of any Class shall be allotted or issued in relation to any Sub-Fund shall be determined by the Directors in accordance with this

Instrument of Incorporation, the Prospectus, the relevant Supplement and any requirement of the Central Bank.

- (b) Where provided for in, and subject to the terms of, the Supplement, the Directors may require an applicant for shares to pay to the ICAV in addition to the price per share such Duties and Charges and Commission in respect of the shares as the Directors from time to time may determine.
- (c) The Directors may issue shares on terms providing for settlement to be made in specie 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 Directors shall be satisfied that the terms of any such exchange shall not be such as are likely to result in any material prejudice to the Shareholders;
 - (ii) 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;
 - (iii) no shares shall be issued until the investments shall have been vested in the Depositary to the Depositary's satisfaction;
 - (iv) the Directors may require that any Duties and Charges and 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
 - (v) 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 Shareholders.
- (d) Save where the relevant Supplement provides otherwise, 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.

13. **SUBSEQUENT CLOSINGS**

The provisions of the relevant Supplement will apply with respect to Subscriptions by Shareholders (whether as new investors or by increasing their existing Commitments) participating on a Subsequent Closing Date.

14. **CAPITAL COMMITMENTS AND CALL NOTICES**

- (a) Shareholders will, pursuant to the Subscription Agreement and in accordance with the Prospectus and this Instrument of Incorporation, be required to make a Commitment to the ICAV and undertake irrevocably to subscribe and pay for fully paid shares in the relevant Sub-Fund when required to do so by the Directors or their delegate in accordance with the Prospectus.
- (b) The ICAV will draw down on Shareholders' Commitments through the issue of fully paid shares. The Directors or their delegate may issue Call Notices for shares, require payment for such shares and shall issue such shares (a "drawdown") in accordance

with the provisions, procedures and time frames set down in the Prospectus. Provided that the terms of the Subscription Agreement and the relevant Call Notice are complied with in full, the Directors may not decline to issue shares following receipt of payment of shares pursuant to a drawdown.

- (c) Any portion of Commitments that are drawn down but not utilised by the ICAV may, at the Directors' absolute discretion, be returned to the respective Shareholders (less any deduction for costs and expenses) with any applicable bank interest. Sums drawn down in accordance with this Clause 14 may be used to make temporary investments pending further utilisation by the ICAV.
- (d) Any sums returned to Shareholders under Clause 14(c) (excluding any bank interest thereon) shall be treated as Unfunded Commitments and shall be available for further drawdown in accordance with the terms of this Instrument of Incorporation and the Prospectus.
- (e) Amounts distributed to Shareholders which are in aggregate equal to Commitments that have been drawn down to fund payments of the Portfolio Management Fee shall be available for further drawdown in accordance with the terms hereof (and will therefore increase the amount of Unfunded Commitments accordingly).
- (f) Amounts distributed to Shareholders and which are in aggregate equal to Commitments that have been drawn down to fund expenses shall be available for further drawdown in accordance with the terms hereof (and will therefore increase the amount of Unfunded Commitments accordingly).
- (g) The Directors may determine in their absolute discretion to retain and use Net Investment Proceeds that have been determined to be distributable to a Shareholder in respect of a Class in accordance with the ICAV's distribution policy to pay all or part of any Commitment that is required to be made by such Shareholder in respect of such Class and the amount of such Net Investment Proceeds so retained shall be deemed to have been distributed to such Shareholder in respect of such Share Class and then recontributed to the ICAV by such Shareholder under the relevant Class. In addition, the Directors may hold back and use Net Investment Proceeds that otherwise would be distributable to a Shareholder to pay all or part of any amounts otherwise owing by such Shareholder to any other Shareholder as referred to herein.
- (h) Shareholders will be released from any obligation to meet calls on Unfunded Commitments on such conditions as the Directors may prescribe as shall be set down in the Prospectus (as they may be amended from time to time). Other than as may be required to pay costs, expenses and liabilities of the ICAV, following the disposal of all the assets of the ICAV, the Directors may cancel all Unfunded Commitments and cause the AIFM or the Investment Manager to conduct an orderly disposal of assets of the ICAV, a Sub-Fund or a Class and cause it to be liquidated in accordance with the provisions of Clause 43.
- (i) Where a Shareholder is in respect of a Sub-Fund a Defaulting Shareholder (as defined in the relevant Supplement) the provisions of the relevant Supplement applicable to Defaulting Shareholders shall apply to that Shareholder.

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 Shareholder 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 Shareholders 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 Shareholder 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 Shareholder) 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 Dealing Day 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 obtained on the Dealing Day 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 Dealing Day 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 Shareholder under this Clause will ordinarily be made in the Base Currency or the relevant Class Currency 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 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 a redemption of part only of the shares held by any Shareholder, at the request of the Shareholder, 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 Shareholder's holding of shares leaves the Shareholder holding less than the Minimum Holding the Directors may, if they think fit, require that the ICAV redeems the whole of that Shareholder'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 Dealing Day (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. The balance of such shares will be redeemed in priority to any subsequent redemption requests on the next Valuation Day, subject to the provisions of this Clause 15(1)(h) and to the suspension of any redemption obligation pursuant to Clause 17.
- (i) At the absolute discretion of the Directors and with the approval of the relevant Shareholder, the ICAV may satisfy any application for redemption of shares by the transfer to the Shareholder of assets of the ICAV *in specie*, **PROVIDED THAT** the ICAV shall transfer to the Shareholder that proportion of the assets of the Sub-Fund which is then equivalent in value to the shareholding of the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not materially prejudicial to the interests of the remaining Shareholders, and such allocation shall be subject to the approval of the Depositary. 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 Shareholder so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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 Shareholder.
- (j) At the absolute discretion of the Directors, the ICAV may satisfy any application for redemption of shares by a Shareholder which represents five (5) per cent or more of the Net Asset Value of a Sub-Fund by the transfer to the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders and which shall be approved by the Depositary and 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 Shareholder so requests the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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 Shareholder.

- (k) In the event that the ICAV is required to deduct, withhold or account for tax on shares held by a Shareholder (whether upon a redemption of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Shareholder (whether in cash or otherwise), or in any other circumstances in which a taxation liability arises, the Directors shall be entitled to arrange for the redemption and cancellation of such number of the shares of such Shareholder 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 Shareholder 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 Shareholder 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 the ICAV is required to deduct, withhold or account for tax on shares held by a Shareholder (whether upon a redemption of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Shareholder (whether in cash or otherwise), or in any other circumstances in which a taxation liability arises, the Directors shall be entitled to arrange for the redemption and cancellation of such number of the Shares of such Shareholder 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 Shareholder 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.
- (n) In the event that a Shareholder 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 Shareholder'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 Shareholder and cause such Shareholder to withdraw as a Shareholder for an amount determined by the ICAV; (iii) assign the shares to an alternative investment vehicle or new parallel company formed at the expense of the Shareholder (and whose expenses the Shareholder 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 Shareholders 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 Shareholder'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 Shareholder to retain its shares, despite the fact that the

Shareholder 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 Shareholder, or in respect of, or distributions to, such Shareholder, the ICAV shall have the right to cause the Shareholder to bear the economic burden of such tax by specially allocating such tax to the shares held by the Shareholder and/or or by withholding any such tax from distributions to such Shareholder.

- (o) In the event that the amount payable to a Shareholder on a redemption is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Shareholder, the ICAV shall be entitled to retain such redeem proceeds for the benefit of all of the remaining Shareholders provided that in no event shall the value of such redemption proceeds exceed €20.00 (or its foreign currency equivalent) for any Shareholder.
- (p) 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 Shareholders or make distributions to Shareholders.

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

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

- (a) Shareholders shall have the limited right to request the redemption of shares set out in this Instrument of Incorporation and the Prospectus. The Directors, at their absolute discretion in accordance with this Instrument of Incorporation, the Prospectus and the ICAV Act, may notify Shareholders that Shareholders may request the redemption of shares issued (other than Designated Investment Class shares) in respect of any Sub-Fund on a Dealing Day designated by the Directors at the Net Asset Value per share. The ICAV shall provide Shareholders with a redemption notice as set out in the Prospectus which shall specify that shares held by a Shareholder to a certain monetary amount may be redeemed provided that each such Shareholder shall have a pro rata entitlement to redeem shares within the same class. Shares shall be redeemed at the Net Asset Value per share on the relevant Dealing Day (subject to such adjustments as set out in the Prospectus) and shall be cancelled on a redemption. Settlement proceeds in respect of any redemption of shares shall be paid within the period specified in the Prospectus after the relevant Dealing Day. Subject to the provisions of the Prospectus, the right to request a redemption of shares of any class may be conditional on the receipt by the ICAV of redemption requests by Shareholders holding a specified percentage of the shares in issue of the relevant Class 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 Shareholders 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 Shareholders falling below the legal minimum number of Shareholders 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 Shareholder under this Clause will ordinarily be made in the Base Currency or the relevant Class Currency 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 Shareholder, 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 Shareholder, the ICAV may satisfy any application for redemption of shares by the transfer to the Shareholder of assets of the ICAV *in specie*, **PROVIDED THAT** the ICAV shall transfer to the Shareholder that proportion of the assets of the Sub-Fund which is then equivalent in value to the shareholding of the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not materially prejudicial to the interests of the remaining Shareholders, and such allocation shall be subject to the approval of the Depositary. 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 Shareholder so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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(2)(e) shall be payable by the relevant Shareholder.
- (f) At the absolute discretion of the Directors, the ICAV may satisfy any application for redemption of shares by a Shareholder which represents five (5) per cent or more of the Net Asset Value of a Sub-Fund by the transfer to the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders and which shall be approved by the Depositary and 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 Shareholder so requests the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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(2)(f) shall be payable by the relevant Shareholder.

- (g) Where the ICAV receives a request for the redemption of shares from any Shareholder 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.
- (h) In the event that the ICAV is required to deduct, withhold or account for tax on shares held by a Shareholder (whether upon a redemption of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Shareholder (whether in cash or otherwise), or in any other circumstances in which a taxation liability arises, the Directors shall be entitled to arrange for the redemption and cancellation of such number of the Shares of such Shareholder 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 Shareholder until such time as they receive from the transferee such declarations as to residency or status as they may require. The Depository shall ensure that the redemption proceeds are held for the purpose of discharging any applicable tax liability as aforesaid.
- (i) In the event that a Shareholder 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 Shareholder'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 Shareholder and cause such Shareholder to withdraw as a Shareholder for an amount determined by the ICAV; (iii) assign the shares to an alternative investment vehicle or new parallel company formed at the expense of the Shareholder (and whose expenses the Shareholder 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 Shareholders 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 Shareholder'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 Shareholders. If the ICAV determines, at its absolute discretion, to allow a Shareholder to retain its shares, despite the fact that the Shareholder 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 Shareholder, or in respect of, or distributions to, such Shareholder, the ICAV shall have the right to cause the Shareholder to bear the economic burden of such tax by specially allocating such tax to the shares held by the Shareholder and/or or by withholding any such tax from or distributions to such Shareholder.
- (j) In the event that the amount payable to a Shareholder on a redemption is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Shareholder, the ICAV shall be entitled to retain such redemption proceeds for the benefit of all of the remaining Shareholders provided that in no event shall the value of such redemption proceeds exceed €20.00 (or its foreign currency equivalent) for any Shareholder.

- (k) 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 Shareholders or make distributions to Shareholders.
- (l) In the event that the ICAV identifies a Designated Investment the Directors shall be entitled to arrange for a pro rata proportion of all existing shares of the Sub-Fund equal to the value attributed to the Designated Investment to be redeemed on a pro rata basis from each Shareholder and the redemption proceeds of the compulsory redemption shall be used to purchase the Designated Investment Class shares and issue them to the relevant Shareholders in accordance with Clause 9(f).
- (m) Upon determination by the ICAV that the Designated Investment no longer constitutes a Designated Investment (in full or in part) or is deemed to have become realised as determined by the Directors in their absolute discretion, all or part of the Designated Investment Class shares will, on notice to the Shareholders, be redeemed by the ICAV, where relevant, the Designated Investment sold (in full or in part) and a pro rata proportion of the redemption proceeds (less an amount equal to any accrued fees and expenses attributable to such shares and including any interest thereon) will be paid to each Shareholder entitled to receive such proceeds within such number of days following the next practicable Dealing Day as the Directors in their absolute discretion shall determine.

(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. If requested, the Directors may, in their absolute discretion and subject to the prior approval of the Depositary and notification to all of the Shareholders, agree to designate Dealing Days and Valuation Points for the redemption of Shares relating to any Sub-Fund, as more particularly 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, provided that the Final Redemption Day may be deferred for a finite period as set out in the Prospectus. 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 Shareholders 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 Shareholders falling below the legal minimum number of Shareholders 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) Where the Directors, in their absolute discretion, have agreed to designate a Dealing Day and Valuation Point for the purposes of the redemption of shares in a Sub-Fund

as provided for in Clause 15(3)(a), the 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 Shareholder 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 Shareholder) 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.

- (d) Where the Directors, in their absolute discretion, have agreed to designate a Dealing Day and Valuation Point for the purposes of the redemption of shares in a Sub-Fund as provided for in Clause 15(3)(a), the ICAV shall, on receipt of a request for redemption of shares duly completed, redeem the shares as requested on the Dealing Day 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.
- (e) Where the Directors, in their absolute discretion, have agreed to designate a Dealing Day and Valuation Point for the purposes of the redemption of shares in a Sub-Fund as provided for in Clause 15(3)(a), the redemption price per share shall be the applicable Net Asset Value for such share obtaining on the Dealing Day 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 Dealing Day 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.
- (f) In the event that a redemption of part only of a Shareholder's holding of shares leaves the Shareholder holding less than the Minimum Holding the Directors may, if they think fit, require that the ICAV redeems the whole of that Shareholder's holding.
- (g) On redemption of part only of the shares held by any Shareholder, 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.
- (h) Payment to a Shareholder under this Clause will ordinarily be made in the Base Currency or the relevant Class Currency 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.
- (i) At the absolute discretion of the Directors and with the approval of the relevant Shareholder, the ICAV may satisfy any redemption of shares by the transfer to the Shareholder of assets of the ICAV *in specie*, **PROVIDED THAT** the ICAV shall transfer to the Shareholder that proportion of the assets of the Sub-Fund which is then equivalent in value to the shareholding of the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not materially prejudicial to the interests of the remaining Shareholders, and such allocation shall be subject to the approval of the Depositary. 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 Shareholder so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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(3)(i) shall be payable by the relevant Shareholder.

- (j) At the absolute discretion of the Directors, the ICAV may satisfy for redemption of shares by a Shareholder which represents five (5) per cent or more of the Net Asset Value of a Sub-Fund by the transfer to the Shareholder 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 Shareholder shall be determined by the Directors on such basis as the Directors in their absolute discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders and which shall be approved by the Depositary and 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 Shareholder so requests the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder. 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(3)(j) shall be payable by the relevant Shareholder.
- (k) Where the ICAV receives a request for the redemption of shares that, pursuant to the Prospectus or as otherwise determined by the Directors, are capable of redemption on the date of such request from any Shareholder 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.
- (l) In the event that the ICAV is required to deduct, withhold or account for tax on shares held by a Shareholder (whether upon a redemption of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Shareholder (whether in cash or otherwise), or in any other circumstances in which a taxation liability arises, the Directors shall be entitled to arrange for the redemption and cancellation of such number of the Shares of such Shareholder 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 Shareholder 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.
- (m) In the event that a Shareholder 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 Shareholder'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 Shareholder and cause such Shareholder to withdraw as a Shareholder 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 company formed at the expense of the Shareholder (and whose expenses the Shareholder 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 Shareholders 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 Shareholder'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 Shareholders. If the ICAV determines, at its absolute discretion, to allow a Shareholder to retain its shares, despite the fact that the Shareholder 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 Shareholder, or in respect of, or distributions to, such Shareholder, the ICAV shall have the right to cause the Shareholder to bear the economic burden of such tax by specially allocating such tax to the shares held by the Shareholder and/or by withholding any such tax from or distributions to such Shareholder.

- (n) 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 Shareholders or make distributions to Shareholders.

16. TOTAL REDEMPTION

- (a) All of the shares of the ICAV, a Sub-Fund or Class 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 Class, save as otherwise set out in the Prospectus or the relevant Supplement.
- (b) 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 Class 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 Qualified Majority 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 Shareholders, or may enter into any other arrangement whereby any Shareholder 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.
- (c) Where a redemption of shares pursuant to Clauses 16(a) or (b) would result in the number of Shareholders 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.

- (d) 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 Shareholders and shall be distributed among the Shareholders 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 Shareholders of a Sub-Fund or with the consent of any Shareholder, the ICAV may make distributions *in specie* to Shareholders or to any individual Shareholder who so consents. At the request of any Shareholder, the ICAV shall arrange the sale of such assets at the expense of such Shareholder 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 Shareholders. 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 Class and each Sub-Fund at each Valuation Point. The Net Asset Value shall be determined in accordance with this Clause 17 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 as may be further described in the Prospectus. 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. Shareholders 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 Class shall be determined by establishing the proportion of the assets of the Class 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 Class, adjusted to take account of any subscription orders (after deduction of any redemption orders) and by allocating relevant Class Liabilities (as defined below) to the Class and making appropriate adjustments to take account of distributions paid, if applicable,

and apportioning the Net Asset Value accordingly. The Net Asset Value per share of a Class shall be calculated by dividing the Net Asset Value of the Class by the number of shares in issue in that Class. Expenses or fees or charges not attributable to a particular Class may be allocated amongst the Classes 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. Class Liabilities relating specifically to a Class will be charged to that Class. In the event that Classes are priced in a currency other than the Base Currency, currency conversion costs will be borne by that Class. In the event that a hedged Class 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 Class to which they relate. Hedged Classes of shares shall not be leveraged as a result of these transactions except to the extent agreed upon by the Central Bank.

“**Class Liabilities**” means any fees, expenses or other liabilities relating to a Class, including as may be disclosed in the Prospectus.

- (d) Unless otherwise specified in the Prospectus, 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 disclosed in the Prospectus:-
- (i) during any period (other than ordinary holiday or customary weekend closings) when any market is closed which is the main market for a significant part of the Sub-Fund’s Investments, or when trading thereon is restricted or suspended;
 - (ii) during any period when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Directors, disposal or valuation of a substantial portion of the investments of the Sub-Fund is not reasonably practicable without this being seriously detrimental to the interests of Shareholders of the Sub-Fund;
 - (iii) during any period during which disposal or valuation of Investments which constitute a substantial portion of the assets of the Sub-Fund is not practically feasible or if feasible would be possible only on terms materially disadvantageous to Shareholders;
 - (iv) during any period when for any reason the prices of any Investments of the Sub-Fund cannot be reasonably, promptly, or accurately ascertained by the ICAV;
 - (v) during any period when remittance of monies which will, or may, be involved in the realisation of, or in the payment for, Investments of a Sub-Fund cannot, in the opinion of the Directors, be carried out at normal rates of exchange;
 - (vi) during any period when proceeds of the sale or redemption of the shares cannot be transmitted to or from the Sub-Fund’s account;

- (vii) upon the service on the Shareholders of a notice to consider a resolution to wind up the ICAV or close the Sub-Fund;
 - (viii) upon the occurrence of an event causing the ICAV or the Sub-Fund to enter into liquidation; or
 - (ix) during any period when the Directors consider it to be in the best interests of the ICAV or the Sub-Fund to do so.
- (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 Day 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 Day relating to that Valuation Point. Alternatively, the ICAV may elect not to treat such Business Day as a Valuation Day in which case it shall notify all applicants for shares and Shareholders 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 Shareholder'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.
 - (h) It is intended that the aggregate Net Asset Value of all shares of any Sub-Fund, Class or series held by any Shareholder shall at all times equal the balance in that Shareholder's capital account in respect of such Sub-Fund, Class or series.

18. VALUATION OF ASSETS

- (a) The Net Asset Value of the ICAV shall be calculated in accordance with the provisions of the Prospectus and such calculation shall be carried out for each Valuation Day as at the Valuation Point. Shareholders 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. Where there is a conflict between the provision of the Prospectus (including the relevant Supplement) and this Clause 18, the provision of the Prospectus (including the relevant Supplement) will prevail.
- (b) Save as otherwise provided in the Prospectus, the assets and liabilities of the ICAV are to be valued in accordance with International Financial Reporting Standards and the valuation policy of the ICAV, using the following hierarchy of pricing sources:
 - (i) market prices (e.g. exchange provided prices);
 - (ii) pricing services (e.g. Bloomberg and Markit);
 - (iii) quotes from brokers or dealers;
 - (iv) counterparty valuations;

- (v) recently observed and verifiable traded price, taking into account the trade size relative to the fund's position size and the trade timing relative to the Valuation Day;
 - (vi) Independent Valuation Service (as defined in Clause 18(d) below), if applicable; or
 - (vii) internally developed or adopted models of the Investment Manager.
- (c) The AIFM will seek to obtain, and utilise, all relevant market data and/or price sources at each Valuation Day, while recognising that all data sources are not equally reliable. At each Valuation Day, the AIFM will seek to obtain a primary price source and secondary price source for each position. The primary price will be the price obtained from the highest ranking source in the hierarchy (the "**Primary Price**"). The secondary price will be the price obtained from the second highest ranking source in the hierarchy (the "**Secondary Price**"). For the avoidance of doubt, two different independent pricing services may be used for the Primary Price and Secondary Price. Where any pricing source provides a range of values the mid-point should be selected. Where possible and appropriate, the AIFM will be consistent in its source from one Valuation Day to the next and across all positions of the same product category.
- (d) "Hard-to-value" assets or liabilities include assets or liabilities which are not listed or traded on a securities exchange or which have been delisted or suspended. Such assets and liabilities will be valued in accordance with the Valuation Policy on the basis of their expected net realisable value ("**Fair Value**"), determined in good faith by the AIFM or an independent valuation service (the "**Independent Valuation Service**").
- (e) For assets or liabilities where there is only one independent price source or no independent price source (i.e. where the price source is the AIFM), an Independent Valuation Service will be engaged at least annually to report on the Fair Value of such positions. In these scenarios the Independent Valuation Service will be utilised as the Primary Price source.
- (f) Cash and other liquid assets will be valued at their face value with interest accrued daily.
- (g) If the AIFM determines that the valuation of any investment pursuant to the valuation procedures does not fairly represent market value or would be inconsistent with International Financial Reporting Standards, the AIFM will value such investment as it determines in its good faith and discretion, and will set forth the basis of such valuation in writing. The AIFM expects that it will be uncommon to assign a value to a security that differs from the valuation pursuant to the valuation procedures.
- (h) 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 herein to the AIFM shall be deemed to include references to the external valuer acting in such capacity.

19. TRANSFER AND TRANSMISSION OF SHARES

- (a) No transfer of shares, whether voluntary or involuntary, shall be valid or effective without the prior written consent of the Directors (acting on the advice of the Portfolio Manager), which consent may be granted, withheld or conditioned but such consent shall not be unreasonably withheld. For the purposes of this Clause 19(a), it shall be reasonable for the Directors to withhold their consent if they consider that, amongst others:
- (i) the transferee does not qualify as a Qualifying Investor;
 - (ii) in consequence of such transfer the transferor or the transferee would hold a number of shares less than the Minimum Holding;
 - (iii) the transfer would cause the ICAV and/or any Sub-Fund to be disqualified as a Irish collective asset-management vehicle or be terminated;
 - (iv) such transfer will be likely to result in:
 - (A) adverse legal or regulatory consequences for the ICAV and/or any Sub-Fund in any material jurisdiction; or
 - (B) an acceleration of any ICAV indebtedness, a default under any loan or other agreement to which the ICAV is a party or cause any assets of the ICAV to become subject to cash collateralisation;
 - (v) any proposed transferee of the entire shareholding of a Shareholder intends to hold such shareholding otherwise than for itself beneficially; or
 - (vi) the transfer would violate any applicable law or regulation, including the ICAV Act, the AIFMD, the AIFM Delegated Regulations, the AIFMD Regulations, the AIF Rulebook, Irish law, any term of this Instrument of Incorporation, any term of the Prospectus or otherwise adversely affect the ICAV and/or any Sub-Fund.
- (b) The Shares, and any beneficial interest therein, may not, directly or indirectly, be transferred, sold, assigned, pledged, encumbered or hypothecated (including, but not limited to, being offered or listed on or through any placement agent, intermediary, online service, site, agent or similar person, service or entity), nor shall any Shareholder create, or permit the creation of, a security interest in or any encumbrance on any Shares, otherwise than in accordance with the Instrument of Incorporation and the Prospectus. The transferee of the Shares must meet all investor suitability standards, complete the Subscription Agreements and comply with any applicable anti-money laundering regulations. The Directors shall decline to register any transfer of any Share to any person who is, in the opinion of the Directors, an Ineligible Subscriber.
- (c) Subject to the relevant restrictions set out in Clause 15, Clause 10 and the Prospectus, shares may be transferred by written instrument of transfer signed by (or in the case of a transfer by a body corporate, signed on behalf of or sealed by) the transferor and the transferee and containing the name and address of the transferor and the

transferee. The instrument of transfer shall be in such form as the Directors approve and contain such information as the Directors may stipulate.

- (d) In the case of the death of any one of joint Shareholders, the survivor(s) will be the only person or persons recognised by the ICAV as having any title to the interest of the deceased joint Shareholder in the Shares registered in the names of such joint Shareholders.
- (e) Shareholders wishing to transfer Shares must sign the transfer in the exact name or names in which the Shares are registered or are to be registered, indicate any special capacity in which they are signing and supply all other required details. The completed form of transfer, duly stamped if applicable, together with such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer, must be sent to the Administrator. The transfer shall take effect on the registration of the transferee in the register of Shareholders. The transferee must agree to hold the Shares subject to the same conditions and restrictions pursuant to which the transferor held the Shares. If the transferee is not already a Shareholder, it will be required to complete a Subscription Agreement.
- (f) A Shareholder wishing to transfer shares shall apply to the ICAV for its consent to the transfer by giving not less than 20 Business Days' prior written notice (or such shorter period as the ICAV shall determine, either generally or in any specific case, in its absolute discretion) and shall provide such information in relation to the proposed transfer and the transferee as may be required by the Directors and no such assignee or transferee of shares shall become a substitute Shareholder (a "**Substitute Shareholder**") without such consent being given.
- (g) 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 Shareholder.
- (h) Prior to a proposed transfer, the ICAV and/or the AIFM shall be entitled to require a written opinion of reputable counsel, satisfactory in form and substance to the ICAV and the AIFM, to the effect that such transfer will not result in any of the effects referred to in Clause 19(a) or any other material adverse effect for the ICAV, any Sub-Fund, any Shareholder or the AIFM. Such opinion shall cover such matters as the ICAV and/or AIFM may reasonably request.
- (i) The Directors may decline to register any transfer of shares unless the instrument of transfer relates only to one Class 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.
- (j) The transferring Shareholder shall bear all costs and expenses arising in connection with any such permitted transfer, including reasonable legal fees arising in relation thereto including under Clause 19(h).
- (k) Any Substitute Shareholder shall be bound by all the provisions of this Instrument of Incorporation and the Prospectus and, as a condition of giving its consent to any transfer to be made in accordance with the provisions of this Clause 19, the Directors

may require any proposed Substitute Shareholder to give such warranties and indemnities, consents and authorities as were given by Shareholders upon their application for shares (including as appropriate by the transferring Shareholder in its Subscription Agreement) and to require the Substitute Shareholder to acknowledge its assumption (in whole or in part) of the Commitment and other obligations of the transferring Shareholder under this Instrument of Incorporation and the Prospectus and Irish law by completing a Subscription Agreement and/or an instrument of transfer in such form as the Directors may require.

- (l) 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.
- (m) 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.
- (n) All instruments of transfer which shall be registered shall be retained by the ICAV subject to Clause 45, 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.
- (o) None of the ICAV, the AIFM and the Investment Manager shall incur any liability for allocations and distributions made in good faith to the transferring Shareholder and such transfer shall not be valid or effective until the written instrument of transfer has been received by the ICAV, accepted by the ICAV and recorded in the Register of Members and the other provisions of this Clause 19 have been satisfied.
- (p) Notwithstanding any other provisions of this Clause 19, each of the Shareholders undertakes to notify the ICAV and the AIFM forthwith in writing of the full name and beneficial ownership of any entity or person to whom it proposes to transfer its shares pursuant to this Clause 19, of any change in its own name and of any other information which the ICAV and/or AIFM may reasonably request.
- (q) No transfer of shares in violation of this Clause 19 shall be valid or effective and consequently the ICAV shall not recognise such transfer for any purpose, including the making of distributions of income or capital, or otherwise with respect to shares and any transfer of shares to a Substitute Shareholder on the basis of any representation by a Shareholder which is untrue or which is subsequently breached by such Shareholder shall be void.
- (r) In the case of the death of a Shareholder, 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 19 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.
- (s) Any guardian of an infant Shareholder and any guardian or other legal representative of a Shareholder under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Shareholder 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 Shareholder 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 Shareholder before the death, insolvency or bankruptcy of the Shareholder under legal disability before such disability.

- (t) A person so becoming entitled to a share in consequence of the death, insolvency or bankruptcy of a Shareholder 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 Shareholder unless and until he shall be registered as a Shareholder 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 amount will not fall below the amount prescribed by the Central Bank in respect of such Qualifying Investors.

21. GENERAL MEETINGS

- (a) All general meetings of the ICAV shall be held in Ireland.
- (b) Subject to the requirements of the ICAV Act and 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) Subject to the requirements of the ICAV Act, the Directors may, and intend to, elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to the Shareholders. 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 Shareholders holding, or together holding, not less than 10% 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 in this Instrument of Incorporation and by the ICAV Act.

22. NOTICE OF GENERAL MEETINGS

- (a) At least fourteen (14) 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 Shareholder 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 Shareholder.
- (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 Shareholders 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 Shareholder in a Sub-Fund or class, the quorum shall be one Shareholder 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 Shareholder for the purpose of a quorum.

- (c) If within thirty (30) minutes from the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Shareholders, 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 Shareholders present shall choose some Shareholder 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 ten (10) 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 five (5) Shareholders or by any Shareholders 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 Classes of shares, the rights attached to any Class (unless otherwise provided by the terms of issue of the shares of that Class 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 Class or the approval of three-fourths of the holders of shares in that Class, by value, eligible to vote and represented or present and voting at a separate general meeting of the holders of the shares of that Class, 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 Shareholders 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. If a resolution in writing is described as a Special Resolution, it shall be deemed to be a Special Resolution within the meaning of the ICAV Act. If a resolution in writing is described as a Qualified Majority Resolution then it shall be deemed to be a Qualified Majority Resolution in the manner provided for in the relevant Supplement. Any such resolutions shall be served on the ICAV.

24. **VOTES OF SHAREHOLDERS**

- (a) On a show of hands every Shareholder who is present shall have one vote.
- (b) On a poll every Shareholder present in person or by proxy shall be entitled to one vote in respect of each share held by him.
- (c) 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.
- (d) 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.

- (e) On a poll, votes may be given either personally or by proxy.
- (f) On a poll, a Shareholder 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.
- (g) 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.
- (h) Any person (whether a Shareholder or not) may be appointed to act as a proxy. A Shareholder may appoint more than one proxy to attend on the same occasion.
- (i) 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; or
 - (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.
- (j) 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.
- (k) The Directors may at the expense of the ICAV send, by post or otherwise, to the Shareholders instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any class of Shareholders, 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 Shareholders entitled to be sent a notice of the meeting and to vote thereat by proxy.

- (l) 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.
- (m) Any body corporate which is a Shareholder 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 Shareholder 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.
- (n) The provisions of Clauses 21, 22, 23 and 24 shall apply *mutatis mutandis* to meetings of each Sub-Fund, Class or series of Shareholders.

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 (12). The first Directors shall be appointed by the subscribers herein.
- (b) A Director need not be a Shareholder.
- (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 Shareholders; 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 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.
- (h) 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.

PROVIDED THAT so far as permitted by Applicable Law and the ICAV Act no Independent Director shall be removed without the prior approval of the Shareholder Committee where the Supplement requires such prior approval.

- (i) 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.
- (j) 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.
- (k) 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.
- (l) 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 Shareholder. 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.

- (m) 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) 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.
- (g) 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.
- (h) 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 Shareholder 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.
- (i) For the purposes of this Clause:-
- (i) a general notice given to the Directors by a Director to the effect that he is a Shareholder 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.
- (j) Save as otherwise provided by this Instrument of Incorporation, a Director shall not vote or participate in any discussion 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.
- (k) 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
 - (iv) 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.
- (l) 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.
- (m) 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.

- (n) For the purpose of this Clause 26, 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.
- (o) The ICAV by Ordinary Resolution may suspend or relax the provisions of this Clause 26 to any extent or ratify any transaction not duly authorised by reason of a contravention of this Clause 26.

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 27 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 and may establish Subsidiaries in the circumstances specified by the Central Bank 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.

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, to mortgage, charge, pledge or assign its undertaking, property, or any part thereof, including in such manner and as set out in the Prospectus.

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 Shareholders 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 Shareholders 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. **SHAREHOLDER COMMITTEE**

- (a) The Directors may (but save as provided for in respect of a Sub-Fund in the relevant Supplement are not required to) invite Shareholders and investors in any AIV to appoint a person to a committee of the Shareholders and investors in such entity (the “**Shareholder Committee**”).
- (b) The Shareholder Committee shall be constituted in the manner provided for in the relevant Supplement.
- (c) The procedures for meetings of the Shareholder Committee and the functions, roles, rights and responsibilities of the Shareholder Committee shall be as set out in the relevant Supplement and this Clause 32.
- (d) Where a member of the Shareholder Committee is unable to attend a meeting of the Shareholder Committee, the appointing Shareholder may appoint, by notice in writing to the ICAV, an appropriately skilled and qualified alternate to attend and participate in such meeting on their behalf.
- (e) The Shareholder Committee will meet as required or requested by the AIFM or any member of the Shareholder Committee. Notice of all meetings shall be given or mailed to each member with an agenda and any related papers not less than ten (10) Business Days before the date of such meeting, *provided* that such notice period may be reduced to eight (8) business days in the event that the Directors reasonably determine that a failure to reduce such notice period would adversely affect the relevant Sub-Fund. Notice of any meeting may be waived in writing, either before or after the meeting, and shall be deemed to be waived by any member in attendance.
- (f) Members of the Shareholder Committee may vote and participate in meetings in person, by proxy or delegate, by written consent or by means of conference telephone or similar communication equipment. The Shareholder Committee may adopt such by-laws for the conduct of their meetings as they may deem appropriate, provided that such by-laws may not be inconsistent with this Instrument of Incorporation and the relevant Supplement.

- (g) Unless otherwise provided in this Instrument of Incorporation, all matters to come before the Shareholder Committee shall be determined by majority vote. Action may be taken by the Shareholder Committee by written consent based upon the same vote that would be required to authorise such action at a meeting held in person.
- (h) Notwithstanding anything to the contrary in this Instrument of Incorporation a member of the Shareholder Committee shall not be entitled to vote on any matters before the Shareholder Committee in relation to which he has a direct or indirect conflict of interest.
- (i) The Shareholder Committee will not owe any fiduciary duties to the ICAV in respect of any Sub-Fund and members of the Shareholder Committee will be entitled to an indemnity on the terms as are set out under Clause 44.
- (j) The ICAV shall reimburse members of the Shareholder Committee for their reasonable expenses actually incurred in attending meetings of the Shareholder Committee but will not be entitled to any other compensation for their services as members of the Shareholder Committee.
- (k) Any member of the Shareholder Committee who is a representative of a Shareholder who becomes a Defaulting Shareholder shall no longer sit on the Shareholder Committee for so long as that Shareholder remains a Defaulting Shareholder.

33. **PROFITS, LOSSES AND DISTRIBUTIONS**

- (a) The Directors may make distributions of net income on a Class by Class basis on the terms set out in the Prospectus. Distributions of net income are generally expected to be made by way of dividend in respect of Shares but may be made by way of compulsory redemptions of Shares at the Directors' absolute discretion. Distributions of net income shall not increase the amount of a Shareholder's Unfunded Commitment.
- (b) During the Investment Period, the Directors may, at the direction of the AIFM: (i) retain any Net Investment Proceeds within the ICAV, without reducing the Shareholders' Unfunded Commitment, for the purpose of making Investments and/or paying Fund Expenses or Management Fees; or (ii) return Net Investment Proceeds to the Shareholders, thereby increasing their respective Unfunded Commitments (but not above their total Commitments to the relevant Sub-Fund). Any such amounts returned to the Shareholders, expressly excluding distributions of net income, hereunder may be subject to recall or redeployment for contribution to the ICAV as provided herein.
- (c) Following the end of the Investment Period, Net Investment Proceeds re-invested by the ICAV shall not exceed: (i) the amount that (X) Management Fees and Fund Expenses drawn down from Shareholders during the Investment Period exceeds (Y) amounts re-invested by the ICAV during the Investment Period plus amounts re-advanced by Shareholders during the Investment Period in respect of Commitment drawn down from them in respect of Management Fee or Fund Expenses; and (ii) the Management Fees and Fund Expenses incurred following the end of the Investment Period and drawn down from Shareholders.

- (d) Where Net Investment Proceeds (other than net income) are to be distributed, such Net Investment Proceeds available for distribution (“**Disposition Proceeds**”) will be distributed to all Shareholders as soon as reasonably practicable (and in any event within three Months) after receipt thereof (except with respect to scheduled amortisation payments and as otherwise provided herein). The ICAV will be entitled to withhold from any distribution amounts necessary or appropriate to create, in its sole discretion, appropriate reserves for expenses and liabilities of the ICAV or any Sub-Fund.
- (e) Disposition Proceeds shall be returned to Shareholders in the manner and in the order of priority set out in the Prospectus. Disposition Proceeds may be returned to Shareholders through: (i) redemptions of Shares pursuant to Clause 15; and/or (ii) distributions by way of dividend in respect of Shares pursuant to Clause 34; and/or (iii) such other means as the Director may from time to time determine. Such capital returns may be made in one or more tranches and the Directors may specify Redemption Days and special distribution record dates for these purposes. Shares will be redeemed at their Net Asset Value per Share. Shareholders will be notified in advance of compulsory redemptions and dividends by the Administrator.
- (f) Should the AIFM or any partner thereof become subject to taxation in respect of the Performance Fee accrued to it pursuant to the distribution procedures outlined in the Prospectus (whether on a single event or permanent basis) in circumstances such that the AIFM does not at the time of the accrual receive a corresponding actual payment, the AIFM or any partner thereof shall be entitled to a payment sufficient to cover such tax liabilities. Any such distribution will be deemed an advance of Performance Fees and shall reduce any future distribution to the AIFM accordingly.
- (g) If the Directors are required by applicable law to withhold tax with respect to a Shareholder (“**Withholding Amount**”), and to pay over such withheld amount to a taxation authority, such payment generally will be treated as if it were a distribution to such Shareholder or in accordance with customary accounting practices, as determined by the Directors.
- (h) In the event that any tax authority determines that any Withholding Amount should be or should have been withheld from distributions of the ICAV to a Shareholder, the Directors shall be entitled to set off from any further distribution to such Shareholder an amount equal to the Withholding Amount, together with any interest payments relating thereto, and to apply such set off amount in satisfaction of any liabilities arising from such failure to withhold. In such circumstances, the Shareholder concerned shall be deemed to have received a distribution of cash equal to the Withholding Amount and a distribution of cash equal to any additional amount retained by the Directors in order to satisfy any interest payments referred to above.
- (i) The Directors may postpone any distribution if the aggregate of such amount that would otherwise be payable to all of the Shareholders after paying Fund Expenses and setting aside appropriate reserves for, or otherwise paying, liabilities and obligations would be less than €1,000,000.

34. **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 Class set forth in the Prospectus. Any dividends payable shall be calculated and paid in accordance with the terms set out in the Prospectus.

- (b) Without prejudice to the generality of Clause 34(a), the Directors may distribute net cash proceeds from the sale of Investments or any portion of an Investment or marketable securities available for distribution and to be distributed (“**Disposition Proceeds**”) and current cash receipts from dividends, interest and other similar distributions from Investments net of current expenses (“**Current Income**”), together with Disposition Proceeds, (“**Investment Proceeds**”) in respect of each Investment in such amounts and order of priority as set forth in the Prospectus, including where different types of classes are established to facilitate the distribution of Investment Proceeds, including, without limitation, investor classes open only to investment by Shareholders other than the Portfolio Manager and its Affiliates and carry or performance classes open only to investment by the Portfolio Manager and its Affiliates.
- (c) Subject to any policy statement and procedures in relation to dividends for the relevant Class set forth in the Prospectus, the amount available for distribution in respect of any Class of shares in any distribution period shall be a sum equal to the aggregate of the net income received by the ICAV in respect of such Class (whether in the form of dividends, interest or otherwise and including realised and unrealised capital gains less realised and unrealised capital losses during the relevant distribution 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 relevant distribution 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 distribution period) interest or dividends or other income accrued at the end of the previous distribution period;
 - (iii) addition of the amount (if any) available for distribution in respect of the last preceding distribution 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 relevant distribution 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 relevant distribution 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.
- (d) The Directors may also declare such dividends on the shares or on any Class of shares from the capital attributable to the relevant Class provided appropriate disclosure is made in the Prospectus in accordance with the requirements of the Central Bank.
- (e) The Directors with the sanction of a Qualified Majority Resolution of the Shareholders of a Class of shares may distribute in kind among Shareholders of such Class by way of dividend or otherwise any of the assets of the relevant Class.
- (f) Shares shall qualify for dividends in such manner as may be determined by the Directors and set out in the Prospectus.
- (g) Any declaration of a dividend by the Directors on any Class of shares may specify that the same shall be payable to the persons registered as the Shareholders 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.
- (h) 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 Shareholder, 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.
- (i) 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.
- (j) In the event that the amount payable to a Shareholder as a dividend is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Shareholder, the ICAV shall be entitled to retain such dividends for the benefit of the relevant Shareholder until such time as the amount payable to the Shareholder is not exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Shareholder. Payment by the ICAV of any retained dividend into a separate account shall not constitute the ICAV a trustee in respect thereof.
- (k) At the option of any Shareholders, the Directors may apply all dividends declared on the shares of any Class held by such Shareholder in the issue of additional shares of

that Class in the ICAV to that Shareholder 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 Shareholder shall be entitled to elect to receive a cash dividend in respect of the shares held by that Shareholder.

- (l) The Directors may provide at their absolute discretion that Shareholders will be entitled to elect to receive in lieu of any dividend (or part thereof) an issue of additional shares of the same Class 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 Shareholder 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.
- (m) Where the ICAV proposes to pay a distribution to a Shareholder, 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.
- (n) Where a dividend is declared in or around the same time as a Drawdown Notice is issued, the ICAV may, in the absolute discretion of the Directors, apply dividends payable to a Shareholder towards satisfaction of such Drawdown Notice.

35. SHAREHOLDER GIVEBACK

- (a) Subject to Clause 35(b), the ICAV may require a Shareholder to return redemption proceeds or dividends made to such Shareholder for the purposes of meeting such Shareholder's *pro-rata* share of any obligations or liabilities (including indemnification obligations) of the ICAV that cannot be met from the ICAV's immediately available assets and resources, subject as otherwise set out herein. Any clawback from Shareholders will be made in the reverse order in which such distributions were made (meaning that amounts which have been subject to Performance Fees will be clawed back in priority to other amounts).
- (b) The Directors may issue a notice on not less than 10 Business Days' notice requiring each Shareholder to return distributions in accordance with Clause 35(a). Subject to applicable law, the obligation to return distributions at Clause 35(a) shall:-
 - (i) cease in respect of a particular distribution on the second anniversary of the dissolution of the ICAV or if written notice of a potential claim has already been given to the Shareholders by the Directors by that date, until such date as the relevant claim has been dismissed, settled or otherwise become due and payable by the relevant Sub-Fund; and
 - (ii) be limited to the greater of (i) 20% of the Aggregate Commitments and (ii) 20% of distributions received by Shareholders (gross of any taxes paid, provided that such taxes are not irrecoverable taxes and provided further that such Shareholder shall not be required to gross-up any payment pursuant to this paragraph in respect of any withholdings or deductions required by law to be made from such distributions or payments).

Where any amounts to be returned are reduced as a result of any withholdings or deductions pursuant to this Clause 35(b), the relevant Shareholder(s) shall provide the AIFM with such reasonable assistance as it shall reasonably require to recover any amounts so withheld or deducted. In the event that Shareholders are notified of a potential claim pursuant to Clause 35(b)(i) above, all Shareholders shall be provided with an annual update as to the status of such potential claim whilst it remains unresolved and shall be notified of its outcome.

- (c) The amount of any distributions returned by a Shareholder pursuant to Clause 35(a) shall be treated as a reduction in the cumulative amount of distributions of Net Investment Proceeds. Distributions returned under Clause 35(a) shall be deemed returned in the reverse order of any distributions of Net Investment Proceeds made in accordance with the Prospectus.
- (d) A Shareholder's obligation to return distributions to the ICAV under Clause 35(a) shall survive the Term of the ICAV, subject to the limitations expressed in this Clause 35, and the ICAV may pursue and enforce all rights and remedies it may have against each Shareholder under Clause 35(a), including requiring interest from the date such contribution was required to be paid under Clause 35(b) calculated at the rate specified in the Prospectus.
- (e) If any Shareholder transfers its Commitment in the ICAV, the Substitute Shareholder to whom such Commitment is transferred shall assume any obligations and liabilities

of the transferor pursuant to Clause 35(a) in respect of any distributions made prior to the effective date of such transfer.

- (f) Any Shareholder that is redeemed from the ICAV shall remain liable to repay distributions to the ICAV pursuant to Clause 35(a) after the date that it ceases to be a Shareholder in respect of any claim or liability made in connection with Investments made prior to the date that such Shareholder ceased to be a Shareholder.
- (g) An excused Shareholder shall not be required to repay distributions to the ICAV pursuant to Clause 35(a) to the extent that the relevant claim or liability relates solely to an Investment in respect of which such Shareholder was excused.

36. UNTRACED SHAREHOLDERS

- (a) The ICAV shall be entitled to redeem any share of a Shareholder 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 Shareholder 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 Shareholder 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 Shareholder 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 Shareholder 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 Shareholder 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 36(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 Shareholder 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 Shareholder 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 Shareholder or other person.

37. **AIVS AND RELATED MANDATES**

- (a) If at any time the AIFM determines in good faith that for legal, tax, regulatory or other similar considerations, or otherwise, that it is in the best interests of the ICAV for certain or all of the Shareholders to have an interest in a potential or existing Investment through one or more alternative investment structures, the AIFM may effect the holding of all or any portion of such interest outside of the ICAV:
 - (i) in the case of a potential Investment, by requiring certain or all Shareholders to be admitted as shareholders or other similar investors to, and to make capital contributions with respect to such potential Investment directly to, a limited partnership or other similar vehicle (each, an “AIV”); or
 - (ii) in the case of an existing Investment, by transferring all or any portion of the Investment to an AIV; and
 - (iii) in either case, by creating such AIV and distributing interests therein to certain or all the Shareholders as shareholders or other similar investors therein.
- (b) In addition, the AIFM shall also have the right to direct that capital contributions of certain or all Shareholders with respect to a potential Investment be made through an AIV if, in the determination of the AIFM, the consummation of the potential Investment would be prohibited or unduly burdensome for the ICAV because of legal, tax, regulatory or other considerations but would be permissible or less burdensome if an AIV were instead utilised. Each AIV will be managed or advised by the AIFM, the Investment Manager and the Portfolio Manager, and will be governed by constitutional documents containing provisions substantially similar in all material respects to those of the ICAV (including, but not limited to, those provisions relating to the Central Bank requirements for investing via subsidiaries), with such differences as may be required by the legal, tax, regulatory or other considerations referred to above, provided that the Shareholders investing therein shall not be generally liable for the obligations of such AIV, *provided that* the AIFM shall provide any participants in such AIV with a written legal opinion from external and independent reputable counsel, confirming that the AIV will not impact on such Shareholders’ limited liability and the tax treatment of the AIV (covering, among other things, that the Shareholders with respect to that investment in such AIV will not (i) be directly subject to tax on its net income in the jurisdiction in which the AIV is organised, established or located excluding for these purposes withholding tax or (ii) be required to file tax returns in such jurisdiction). All references in this paragraph (b) to the Shareholders of an AIV shall be deemed to include all investors in an AIV formed as a vehicle other than an Irish collective asset-management vehicle.
- (c) Each Shareholder admitted to and investing in an AIV shall be required to make capital contributions to such AIV in a manner similar to that which it is required to make Capital Contributions to the ICAV in accordance with the Prospectus, and each such Shareholder’s Unfunded Commitment shall be reduced by the amount of such contributions to the same extent as if such contributions were made to the ICAV as

Capital Contributions. With respect to each Investment in which an AIV participates with the ICAV, any investment expenses or indemnification obligations related to such Investment shall be borne by the ICAV in respect of the ICAV, such AIV and any other Related Mandate (excluding any AIV to the extent it invests through another Related Mandate) in the proportions specified in the Prospectus. Any management fee funded by a Shareholder with respect to an AIV shall reduce such Shareholder's share of the Management Fee funded by such Shareholder, and distributable to the AIFM by the ICAV, by a corresponding amount. The investment results of an AIV will be aggregated with the investment results of the ICAV for purposes of determining distributions under this Prospectus unless the AIFM in its absolute discretion elects otherwise based on its determination that such aggregation increases the risk of any adverse tax consequences or imposes legal or regulatory constraints that would be contrary to the best interests of the ICAV in respect of the ICAV and the Shareholders. Unless the AIFM determines in its discretion that doing otherwise would result in an adverse tax consequence or would impose a legal or regulatory constraint, the ICAV in respect of the ICAV and the AIV shall invest, hold and dispose of their respective interests in the Investment at the same time in proportion to their respective ownership interests therein and otherwise on the same terms. Where the AIFM determines in good faith that an AIV is required to deal with legal, tax regulatory or other similar considerations which are specific to and result solely from the Shareholders admitted to the AIV, such Shareholders shall bear the establishment and operating costs of such AIV *pro rata* to their participation in such vehicle, subject to such adjustment as the AIFM deems fair and equitable between the ICAV in respect of the ICAV, the AIV and any Parallel Funds.

- (d) Prior to the Final Closing Date, the AIFM may, to accommodate legal, tax, regulatory or other similar considerations of certain investors, determine to form one or more pooled investment vehicles (other than a co-investment vehicle and a Segregated Mandate) and having substantially the same terms as the ICAV (each a "**Parallel Fund**") and that are sponsored by the AIFM to co-invest with the ICAV, except that the terms of each Parallel Fund may differ from those of the ICAV to the extent required by such legal, tax, regulatory or other similar considerations. All references in this paragraph to the shareholders of a Parallel Fund shall be deemed to include all investors in a Parallel Fund formed as a vehicle other than an Irish collective asset-management vehicle.
- (e) In addition, the AIFM may, at any time, to accommodate legal, tax, regulatory or other similar considerations, require one or more Shareholders to subscribe for shares in, or be admitted as limited partners or other similar investors to, one or more Parallel Funds, and in connection therewith and in consideration for the cancellation of all or a portion of their shares, such Shareholders will receive an equivalent interest in (and may be required to make an equivalent contribution to) such Parallel Funds. In furtherance of the foregoing, each such Shareholder will have a capital commitment and capital account or equivalent in the Parallel Fund equal to the applicable cancelled portion of such Shareholder's Commitment and Unfunded Commitment in the ICAV and each such Shareholder shall cease to hold such cancelled portion and the Administrator shall update the books of the ICAV accordingly.
- (f) Subject to the legal, tax, regulatory or other similar considerations referred to above, each Parallel Fund will be managed or advised by the AIFM, the Investment Manager and the Portfolio Manager.

- (g) The Investment Manager and its Affiliates may create and manage or advise vehicles or accounts (other than Parallel Funds, AIVs or co-investment vehicles) which have an investment strategy which is substantially similar to the investment strategy of the ICAV and which have been formed for the purposes of investing alongside the ICAV subject to any specific restrictions or limitations set out under such mandate (each a “**Segregated Mandate**”).
- (h) Parallel Funds and Segregated Mandates shall together be referred to as “**Related Mandates**”. For the avoidance of doubt, a Related Mandate shall exclude any co-investment Vehicle. Where the Investment Manager determines that a prospective investment would be an appropriate investment for both the ICAV and a Related Mandate, such Related Mandate will be entitled to invest alongside the ICAV (whether by participating alongside the ICAV in an investment holding entity, directly or through its own investment holding entity) as provided in the Prospectus provided always that the Investment Manager reasonably determines, acting in good faith, that the terms of such investment by that Related Mandate would not reasonably be expected to prejudice the interests of the ICAV in relation to such prospective investment. Although the structure and economic terms of any Related Mandate may differ from those of the ICAV, where such Related Mandates invest in investments in which the ICAV is also participating, they will invest and divest on substantially the same terms and conditions as the ICAV and at substantially the same time as the ICAV except to the extent that legal, tax or regulatory considerations dictate otherwise. A Related Mandate will also generally invest in substantially the same interests as those of the ICAV, however to the extent that this is not the case, the interests of the Related Mandate will have substantially the same economics as, and rank *pari passu* with, the interests of the ICAV.
- (i) Investment opportunities that are suitable for the ICAV’s investment strategy will be allocated by the AIFM in accordance with the terms of the Prospectus and any fees, costs, expenses or liabilities are incurred in relation to such an investment opportunity shall be borne between the ICAV, any AIV, any Related Mandate, and any co-investment vehicle invested in or that intended to invest in such investment in accordance with the terms of the Prospectus.
- (j) In the event that the AIFM determines to form one or more Parallel Funds or AIVs, the Directors shall, in accordance with the requirements of the Central Bank, have full authority, without requiring the consent of any person, including any other Shareholder, to amend the Prospectus and/or this Instrument of Incorporation as may be necessary or appropriate in the good faith judgment of the AIFM and the Directors to facilitate the formation and operation of such Parallel Fund or AIV and the investments thereof. The instrument of incorporation and/or other constitutional or transfer documents of any Parallel Fund or AIV and any other documents reflecting the admission of the Shareholders to such Parallel Fund AIV will be executed on behalf of the Shareholders investing therein by the Directors pursuant to the power of attorney granted by each of the Shareholders pursuant to the Subscription Agreement.

38. **CONFLICTS OF INTEREST**

- (a) Subject to any relevant restrictions set out in this Instrument of Incorporation or in the Prospectus and subject to applicable law:

- (i) certain Investments may be appropriate for the ICAV or any Sub-Fund and also for other clients advised or managed by any Affiliate of the AIFM, the Investment Manager, the Depository, the Administrator, or the Portfolio Manager, including but not limited to any Related Mandates or co-Investment vehicles;
- (ii) any Affiliate of the AIFM, the Investment Manager, the Depository, the Administrator, or the Portfolio Manager, any of their directors, Shareholders, officers or employees, any Shareholders of the immediate family of the foregoing persons and/or any partnerships, limited companies, corporations, trusts or other entities which are substantially comprised of the foregoing persons (each an “**Interested Party**”) may become Shareholders and hold, dispose of or otherwise deal with shares, subject always to the restrictions set out in this Instrument of Incorporation and the Prospectus;
- (iii) an Interested Party may contract, or enter into any financial, banking or other transaction, with the ICAV, any Sub-Fund or any Shareholder or any of their respective Affiliates or in respect of any Investment or with any company or body, any of whose securities are held by or for the account of or otherwise connected with the ICAV or which is a borrower in relation to an Investment (or an Affiliate thereof), or be interested in any such transaction, and the Interested Party shall not be called upon to account in respect of any such contract or transaction or benefit derived therefrom by virtue only of the relationship between the parties concerned, and the Interested Party shall be entitled to retain for its own benefit any profit or benefit derived therefrom;
- (iv) an Interested Party may complete a transaction pursuant to a contract effected in the normal manner on a stock exchange or otherwise where the purchaser or vendor is undisclosed to the Interested Party at the time;
- (v) an Interested Party may advise Subsidiaries (or an Affiliate thereof) or any borrower in relation to any Investment in relation to sourcing or acquiring or otherwise dealing with assets, loans, companies or businesses which are complementary to their existing businesses or in relation to the making of other investments and they are under no obligation to offer a participation in any such opportunity to the ICAV in respect of a Sub-Fund;
- (vi) an Interested Party may provide services to Subsidiaries or Investments (as applicable) or with respect to an Investment or to corporations, partnerships, trusts, limited liability companies or other entities in which the ICAV wishes to invest in respect of a Sub-Fund and in such circumstances may receive fees in respect of such services;
- (vii) an Interested Party may directly or indirectly acquire an interest in any Investment on terms which the AIFM in its absolute discretion determines to be arm’s length; and
- (viii) an Interested Party may be subject to such other conflicts of interest as are disclosed in the Prospectus,

and the Interested Party shall not be under any duty to disclose to the ICAV information which has come into the possession of the Interested Party or any

Associated Company as a result of any such arrangements entered into for third parties or by any other means communicated to the ICAV and shall not be liable to account to the ICAV for any brokerage commissions or fees charged in connection with or profits or benefits made or derived from or in connection with any such transaction, including without limitation any commissions or fees charged to the ICAV or a counterparty in circumstances in which the AIFM has acted as agent for the account of the ICAV or such counterparty in connection with the sale or purchase of shares in the ICAV or Investments, provided that, with respect to transactions of the type referred to in Clauses (ii), (iii) and (vii) above, in accordance with the requirements of the Central Bank, such transactions are in the best interests of Shareholders and are negotiated at arm's length and:

- (A) a certified valuation of such transaction by a person approved by the Depositary (or in the case of any such transaction entered into by the Depositary, the Directors as independent and competent has been obtained; or
 - (B) such transaction has been executed on best terms obtainable on an organised investment exchange under its rules; or
 - (C) where (A) and (B) are not practical, such transaction has been executed on terms which the Depositary is (or in the case of any such transaction entered into by the Depositary, the Directors are) satisfied conform with the principle that such transactions be negotiated at arm's length and in the best interests of the Shareholders.
- (b) Nothing in this Instrument of Incorporation shall be construed as prohibiting any Shareholder from buying or selling securities for its own account, including securities of the same issuers as those held by the ICAV or any Sub-Fund.

39. **PREFERENTIAL TREATMENT**

Where permitted in the Prospectus, some Shareholders may obtain preferential treatment from time to time. The AIFM will seek to ensure the fair treatment of Shareholders 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 Shareholders. The preferential treatment may apply to any type of Shareholder (including Shareholders who have legal or economic links with the ICAV or the AIFM) and may relate to fees, information rights, redemption rights or other matters described in the Prospectus. Information on the preferential treatment shall be made available to investors upon request or by any other means in accordance with the requirements of the AIFMD Regulations.

40. **ACCOUNTS**

- (a) 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.
- (b) The books of account shall be kept at the registered office, or subject to the provisions of the ICAV Act, 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.

- (c) 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.
- (d) 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.
- (e) 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 40(d) 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.
- (f) 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 electronic mail or any other means of Electronic Communication 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 Shareholders and to every person entitled under the ICAV Act to receive them within 180 days following the end of the relevant Accounting Period, subject to reasonable delays in the event of late receipt of any necessary financial information from or in respect of any Investment subject always to the approval of the Central Bank, where appropriate, and the requirements of the AIFMD Regulations. 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.
- (g) Shareholders have the right to request a hard copy of the Annual Reports 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 from the ICAV at any time free of charge and these will also be made available for inspection at the registered office of the ICAV.
- (h) 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.

- (i) The information required by Regulation 24 of the AIFMD Regulations shall be disclosed by way of a report to Shareholders or other means permitted under, and at the frequency required by, AIFMD.
- (j) 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 40 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.

41. **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 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.
- (c) On the date on which the holding of an annual general meeting is dispensed with in accordance with Clause 21(c), if any Auditors appointed in accordance with the ICAV Act cease to hold office and the Directors shall immediately reappoint the Auditors or appoint new Auditors.
- (d) 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.
- (e) 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 Shareholder 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 Shareholders in accordance with section 133 of the ICAV Act.
- (f) 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 shall be approved by the Directors or the Central Bank.
- (g) The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- (h) The report of the Auditors to the Shareholders 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.
- (i) 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.

- (j) 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 Shareholders.

42. NOTICES

- (a) Any notice or other document required to be given to, delivered, served upon or sent to a Shareholder pursuant to this Instrument of Incorporation and/or the applicable law may be given to, delivered, served or sent to any Shareholder 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 Shareholder at the Shareholder's address as appearing in the Register of Members;
- (iii) by sending it by courier to or leaving it at the Shareholder's address appearing on the Register of Members;
- (iv) subject to such Shareholder'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 Shareholder; or
- (v) subject to such Shareholder'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 Shareholder by the ICAV:-

- (i) if sent by courier or 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 email or other electronic means, upon sending; or
- (iv) if published as an electronic record on a website, upon publication;

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 Shareholder with regard to Electronic Communications and the use of a website shall be deemed

to have been satisfied where the Shareholder subscribes for or holds shares in the ICAV as the Shareholder is bound by this Instrument of Incorporation as if they had been signed by such Shareholder. The Shareholder may at any time revoke such consent by requesting the ICAV to communicate with that Shareholder 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 Shareholder or, with the consent of a Shareholder, sent to the Shareholder in electronic form by electronic means or by the use of a website, shall notwithstanding that such Shareholder 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 Shareholder 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 Shareholder appointing a proxy to complete a specified electronic form of proxy which shall be either signed by the Shareholder 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.

43. **TERM, WINDING UP AND TERMINATION**

- (a) The term of the ICAV and each Sub-Fund shall be as specified in the Prospectus. At the end of the term of the ICAV or the relevant Sub-Fund, the ICAV or such Sub-Fund shall be put into liquidation automatically in accordance with the provisions of this Clause 43 and the ICAV or the Sub-Fund shall wind-up and apply to the Central Bank for revocation of the authorisation of the ICAV or the approval of the Sub-Fund, as applicable.
- (b) All of the shares in the ICAV or all of the shares in a Sub-Fund or Class may be redeemed by the ICAV in the following circumstances:-
 - (i) if so provided in the Prospectus;
 - (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 Class, as appropriate, that all of the shares of the ICAV, the Sub-Fund or the Class, 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 alternative investment fund manager 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 alternative investment fund manager or shall have ceased to be approved by the Central Bank.
- (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.
- (e) The assets of the ICAV available for distribution (after satisfaction of creditors' claims, including any Management Fee and Performance Fee due to the AIFM) amongst the Shareholders shall be distributed *pro rata* to the holders of the shares of each Class in the ICAV and shall be *pro rata* to the number of shares in that Class held by them.
- (f) The assets available for distribution among the Shareholders shall then be applied in the following priority:-
 - (i) firstly, in the payment to the Shareholders of each Class of each Sub-Fund of a sum in the relevant Class 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 Class 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 Class 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) secondly, 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) thirdly, in the payment to the Shareholders of any balance then remaining in the relevant Sub-Fund, such payment being made in proportion to the number of shares held; and
 - (iv) fourthly, in the payment to the Shareholders 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 Class 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 Shareholders *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 Shareholder 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 Shareholder so requests, the ICAV shall arrange to dispose of the Investments on behalf of the Shareholder at the expense of such Shareholder. 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 Shareholders as the liquidator shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, but not so that any Shareholder 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 43 shall be read as, where appropriate, referring to the Sub-Fund or Sub-Funds which is or are being wound up.

44. INDEMNITY

- (a) The ICAV shall indemnify its Directors, Officers, members of the Shareholder Committee, 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, member of the Shareholder Committee, 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, member of the Shareholder Committee, 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, member of the Shareholder Committee 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, member of the Shareholder Committee or employee may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, Officer, member of the Shareholder Committee 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 Clause 44(a) hereof.
- (b) For the avoidance of doubt no Director or member of the Shareholder Committee shall be liable for the acts or omissions of any other Director or other member of the Shareholder Committee (as the case may be).
 - (c) The ICAV may indemnify the AIFM, any Investment Manager, Administrator, Investor Advisory Committee Shareholders, adviser, service provider, delegate and any agent of the ICAV and any directors, officers, managers, partners, Shareholders, 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 Prospectus and the agreement providing for such indemnity.
 - (d) 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.
 - (e) The ICAV, the AIFM, the Investment Manager, the Administrator and the Depositary shall each be entitled to rely absolutely on any declaration received from a Shareholder or his agent as to the residence or otherwise of such Shareholder 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.

- (f) None of the ICAV, the AIFM, the Investment Manager, the Administrator and the Depositary shall incur liability to the Shareholders 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.
- (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.

45. 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;
- (i) 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.

46. 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.

47. ALTERATION TO INSTRUMENT OF INCORPORATION AND PROSPECTUS

- (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 Qualified Majority Resolution; or
 - (ii) the Depositary has certified in writing that the amendment does not:
 - (A) prejudice the interests of the Shareholders; 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 Shareholders.
- (c) For the purposes of Clause 47(b), a change in the name of the ICAV does not constitute an alteration to the Instrument of Incorporation.
- (d) The AIFM shall provide to the Investment Manager and each Shareholder a copy of each amendment to the Prospectus or the Instrument of Incorporation promptly after its effective date of implementation.

WE, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into a 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 of Subscribers	Number of Shares
-------------------------------------------------------------	-------------------------

For and on behalf of Attleborough Limited One 10 Earlsfort Terrace Dublin 2 D02 T380 Ireland	One
----------------------------------------------------------------------------------------------------------	-----

Body Corporate

For and on behalf of Fand Limited One 10 Earlsfort Terrace Dublin 2 D02 T380 Ireland	One
--------------------------------------------------------------------------------------------------	-----

Body Corporate

Dated: 9 April 2018

Witness to the above signatures:

Caoimhe McGuinness
10 Earlsfort Terrace
Dublin 2
D02 T380

Ireland

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

INSTRUMENT OF INCORPORATION

OF

**NTR SUSTAINABLE INFRASTRUCTURE
FUNDS ICAV**

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

(as amended by a Special Resolution passed on
14 December 2018)

**Arthur Cox
Ten Earlsfort Terrace
Dublin 2
Ireland**