

**Irish Collective Asset-management Vehicles Act 2015**

**INSTRUMENT OF INCORPORATION**

**of**

**ROYALTY PHARMA INVESTMENTS 2019 ICAV**  
(a closed-ended ICAV)

**A VARIABLE CAPITAL COLLECTIVE INVESTMENT CORPORATE BODY**

(Approved by shareholder resolution dated 10 June 2020 and by the Central Bank on 10 June 2020)

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# 1 Definitions

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

“**Accounting Period**” means, unless otherwise determined by the Directors, a financial period of the ICAV commencing in the case of the first such period on the date of registration with the Central Bank and terminating on 31 December 2020 and in any other case commencing on the end of the last financial period and ending on 31 December of each year.

“**Act**” means the Irish Collective Asset-management Vehicles Act 2015 and every modification or re-enactment thereof for the time being in force.

“**Administrator**” means any person, firm or corporation appointed by the ICAV from time to time and for the time being responsible for the provision of administration, fund accounting and related services to the ICAV.

“**AIF**” means an alternative investment fund as defined in the AIFM Regulations.

“**AIF Rulebook**” means the rulebook issued by the Central Bank as may be amended from time to time which sets out the Central Bank’s regulatory regime for AIFs and other relevant entities that fall to be regulated under the AIFMD.

“**AIFM**” means the person, firm or corporation appointed and from time to time acting as the alternative investment fund manager of the ICAV (if any) pursuant to the AIFM Regulations, which may be the ICAV itself, the Investment Manager or another service provider to the ICAV.

“**AIFMD**” means the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (as amended).

“**AIFM Regulations**” means the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. 257 of 2013) as may be amended from time to time, and all applicable Central Bank regulations made, conditions imposed or derogations granted thereunder.

“**AIFM Rules**” means any rules or conditions from time to time made by the Central Bank pursuant to the Act and the AIFM Regulations, and, including without limitation, the AIF Rulebook.

“**Annual Report**” means a report prepared in accordance with Section 35 hereof.

“**Auditors**” means the auditors for the time being of the ICAV.

“**Base Currency**” means the base currency of the ICAV being US dollars (“**USD**”), or such other currency as may be the lawful currency of Ireland from time to time, unless otherwise determined by the Directors and disclosed in the Prospectus.

“**Business Day**” means such day or days as the Directors from time to time may determine and specify in the Prospectus.

**“Cash Receipts”** means all cash proceeds received with respect to each Investment of the Fund (including any investments held indirectly through a Subsidiary or its investment in Royalty Pharma Investments, an Irish unit trust).

**“Central Bank”** means the Central Bank of Ireland or any successor thereto.

**“Class Currency”** means the currency in which a Share class is designated being USD, unless otherwise determined by the Directors and disclosed in the Prospectus.

**“Closed-Ended Period”** means the period disclosed in the Prospectus, during which there shall be no permitted redemptions, except as may be declared at the discretion of the AIFM.

**“Dealing Day”** means such day or days as the Directors from time to time may determine and specify in the Prospectus.

**“Depository”** means any person, firm or corporation appointed and for the time being responsible for the safekeeping of all of the assets of the ICAV.

**“Depository Agreement”** means any agreement for the time being subsisting between the ICAV, the AIFM and the Depository relating to the appointment and duties of such Depository.

**“Director”** means any director of the ICAV for the time being.

**“Distributor”** means any person, firm or corporation appointed by the ICAV from time to time and for the time being responsible for the provision of distribution and related services to the ICAV.

**“Fractional Share”** means a fractional share in the ICAV issued in accordance with Section 12.5.

**“ICAV”** means an Irish collective asset-management vehicle registered pursuant to the Act. References to **“the ICAV”** shall be to the ICAV to which this Instrument relates.

**“Initial Offer Period”** means the period determined by the Directors during which Shares of any class are offered by the ICAV for purchase or subscription at the Initial Price.

**“Initial Price”** means the price at which any Shares of any class are first offered for purchase or subscription.

**“Instrument”** means this instrument of incorporation, including the Schedules, as amended from time to time.

**“Investment”** means any of the investments of the ICAV as more particularly set out in the Prospectus, including, in particular, any investments held through a Subsidiary.

**“Investment Manager”** means any person, firm or corporation appointed by the ICAV and / or the AIFM from time to time with the prior approval of the Central Bank and for the time being providing investment management and/or investment advisory services to the ICAV.

**“in writing”** means written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing, whether electronic or otherwise, or partly one and partly another.

**“Knowledgeable Investor”** means an investor who:

- (a) is the AIFM, the Investment Manager, the promoter of the ICAV or an entity within the promoter’s group, or a company appointed to provide investment management or advisory services to the ICAV; or
- (b) is
  - (i) a director of any of the entities listed at a) above; or
  - (ii) an employee of any of the entities listed at a) above and is directly involved in the investment activities of the ICAV or is a senior employee of such entity and has experience in the provision of investment management services; and

who certifies in writing to the ICAV that:

- (1) he is availing of the exemption from the minimum subscription requirement of €100,000 (or such other amount as may be specified by the Central Bank) on the basis that he is a “Relevant Employee”;
- (2) he is aware that the ICAV is usually marketed to Qualifying Investors who are normally subject to a minimum subscription requirement of €100,000 (or such other amount as may be specified by the Central Bank);
- (3) he is aware of the risk involved in the proposed investment; and
- (4) he is aware that inherent in such investment is the potential to lose all of the sum invested;

and provided further that the ICAV is satisfied that the investor satisfies the conditions at (a) or (b) above.

**“Minimum Subscription”** means the minimum subscription from time to time specified in the Prospectus, which shall not be less than €100,000 (or its foreign currency equivalent) or such other minimum amount as may be specified by the Central Bank from time to time.

**“month”** means calendar month.

**“Net Asset Value”** means the amount determined for any particular Dealing Day pursuant to Section 19 and Schedule 2 hereof.

**“Officer”** means any Director or the Secretary.

**“Ordinary Resolution”** means a resolution of the ICAV or of any class of Shares in the ICAV, as appropriate, passed by a simple majority of the of the votes cast by the members of the ICAV or any class of Shares in the ICAV, as appropriate, in person or by proxy at a general meeting of the ICAV or any class of Shares in the ICAV, as appropriate.

**“Prospectus”** means the prospectus from time to time issued by the ICAV in relation to the ICAV and any supplement or supplements and any addendum designed to be read and construed together with and to form part of the prospectus.

**“Qualifying Investor”** means:

- (a) an investor who is a professional client under 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 an investment in Shares; or
- (c) an investor who certifies that they are an informed investor by confirming that:
  - (i) they have such knowledge of and experience in financial and business matters as would enable the investor to properly evaluate the merits and risks of the prospective investment in the Shares; or
  - (ii) that the investor’s business involves, whether for its own account or the account of others, the management, acquisition or disposal of property of the same kind as the property of the ICAV; or
- (d) such other person or persons as may be permitted to acquire Shares in accordance with the AIF Rulebook.

Within the European Union, the ICAV may only be marketed to professional investors as defined in AIFMD, unless the relevant member state of the European Union permits, under its laws, the ICAV to be sold to other categories of investors and this permission encompasses investors in the categories at (b) and (c) above.

**“Recognised Market”** means any stock exchange, over-the-counter market or other securities market in any part of the world.

**“Register”** means the register in which are listed the names of Shareholders.

**“Royalty Investments”** means (i) royalty interests as more particularly set out in the Prospectus; (ii) ownership interests in any entities formed for the purpose of holding royalty interests or substantially all of the assets of which consist of royalty interests; (iii) any securities, investments or contracts that may provide a hedge for royalty interests; and (iv) other assets and investments considered by the Investment Manager to be related to the foregoing (and shall include the ICAV’s proportionate interest in Royalty Investments acquired or held by the ICAV indirectly through a Subsidiary, including its investment in Royalty Pharma Investments, an Irish unit trust).

**“Secretary”** means any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV.

**“Security Investment Values”** means the value of each of the following investments held directly or indirectly by the ICAV as of such date, determined in accordance with US generally accepted accounting principles: (i) the securities (including controlling and non-controlling interests, equity, debt and hybrid securities) of entities in the pharmaceutical, biopharmaceutical, medical or healthcare industry or operating assets thereof (other than royalty interests); (ii) any securities, investments or contracts that may provide a hedge for the investments referred to in clause (i); and (iii) other assets and investments considered by the Investment Manager to be related to the investments referred to in clauses (i) and (ii).

“**Share**” or “**Shares**” means a share or shares in the ICAV.

“**Shareholder**” or “**Shareholders**” means a person or persons registered as a holder of Shares.

“**signed**” includes a signature or representation of a signature affixed by mechanical or other means.

“**Special Resolution**” means a resolution of the ICAV or of any class of Shares in the ICAV, as appropriate, passed by not less than 75 per cent of the of the votes cast by the members of the ICAV or any class of Shares in the ICAV, as appropriate, in person or by proxy at a general meeting of the ICAV or any class of Shares in the ICAV, as appropriate.

“**Subscriber Shares**” means the Shares which the subscribers to the Instrument of the ICAV agree to subscribe for as more particularly hereinafter set forth after their names.

“**Subsidiary**” means any subsidiary company within the meaning of section 7 of the Companies Act 2014 or any other wholly owned entity used by the ICAV to hold assets.

“**TCA 1997**” means the Taxes Consolidation Act 1997.

“**Valuation Period**” means a period:

- (a) commencing on:
  - (i) in the case of the initial Valuation Period, the date of commencement of operations of the ICAV; or
  - (ii) in the case of each subsequent Valuation Period, the date immediately following the close of the previous Valuation Period; and
- (b) terminating on the first to occur of:
  - (i) the last day of the current Accounting Period of the ICAV;
  - (ii) the next Valuation Point of the ICAV; and
  - (iii) the date when the ICAV shall terminate.

“**Valuation Point**” means such time as the Directors shall determine and specify in the Prospectus, being the time as of which the value of assets and liabilities of the ICAV shall be calculated and which shall be at least as often as the ICAV deals;

1.2 Reference to enactments and to articles and sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force.

1.3 Unless repugnant to the context:

1.3.1 words importing the singular number shall include the plural number and vice versa;

1.3.2 words importing the masculine gender only shall include the feminine gender;



- 1.3.3 words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
- 1.3.4 the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative.
- 1.4 Nothing in this Instrument shall be construed so as to prohibit the ICAV, the AIFM, the Investment Manager, the Depositary, the Administrator or any other service provider to the ICAV from complying with any applicable law, rule and/or regulation including but not limited to the AIFMD and any applicable AIFM Rules. Furthermore, the terms of the appointment of any AIFM, Investment Manager, Depositary, the Administrator and other service provider shall be in accordance with applicable law, rule and/or regulation including but not limited to the AIFMD and any applicable AIFM Rules.

## **2 Name of the ICAV**

- 2.1 The name of the ICAV is Royalty Pharma Investments 2019 ICAV.
- 2.2 No change in the name of the ICAV shall be made without the prior approval of the Central Bank and any such change shall be in accordance with the Act and the requirements of the Central Bank.

## **3 Constitution and Type of Vehicle**

- 3.1 The ICAV is a variable capital investment corporate body established pursuant to the Act.
- 3.2 The ICAV is, for the purposes of the AIFM Rules, categorised as an AIF scheme.
- 3.3 The head office and registered office of the ICAV are situated in Ireland.

## **4 Object**

- 4.1 The sole object of the ICAV is the collective investment of the funds available to it in property as permitted by the Central Bank in accordance with the AIFM Regulations and the AIFM Rules and the giving to Shareholders the benefit of the results of the management of its funds, as further described in the Prospectus. The ICAV may take any measure and carry out any operations which it may deem useful or necessary to the accomplishment and development of its purpose to the full extent permitted by applicable law.
- 4.2 For the purposes of achieving its object, the ICAV shall also have the following powers:
- 4.2.1 to acquire, dispose of, invest in and hold by way of investment, either in the name of the ICAV or in that of any nominee, any interest in any real estate (whether leasehold, freehold or otherwise) or real estate related interest and any shares, stocks, warrants, units, participation certificates, debentures, debenture stock, bonds, obligations, collateralised obligations, loans, loan stock, notes, loan notes, promissory notes, structured notes, structured bonds, structured debentures, commercial paper, certificates of deposit, bills of exchange, trade bills, treasury bills, futures contracts, swap contracts, contracts for differences, commodities of every description (including precious metals and oil), variable or floating rate securities, securities in respect of which the return and/or redemption amount is calculated by reference to any index, price or rate, options contracts, forward rate

agreements, policies of assurance and insurance, currencies, money market instruments and financial instruments and securities of whatsoever nature created, issued or guaranteed by any company wherever incorporated or carrying on business or by any partnership, trust, unit trust, mutual fund or other collective investment scheme of whatsoever nature wherever formed or registered or carrying on business or issued or guaranteed by any government, government instrumentality, political subdivisions, sovereign ruler, commissioners, public body or authority supreme, dependant, state, territorial, commonwealth, municipal, local, supranational or otherwise in any part of the world, units of or participation in any unit trust scheme, mutual fund or other collective investment scheme in any part of the world and whether or not fully paid up, and any present or future rights and interest to or in any of the foregoing, and from time to time to acquire, invest in, and vary, exchange, grant, sell and dispose of options over any of the foregoing and to subscribe for the same subject to such terms and conditions (if any) as may be thought fit and to exercise and enforce all rights and powers conferred by or incidental to the ownership or holding of any of the foregoing or of any legal or equitable interest therein and to deposit money (or place money on current account) with such persons in such currencies and otherwise on such terms as may seem expedient;

- 4.2.2 to deposit money, securities and any other property of whatsoever nature to or with such person, and on such terms as may seem expedient and to discount, buy and sell bills, notes, warrants, coupons and other negotiable or transferable instruments, securities or documents of whatsoever nature;
  - 4.2.3 to do all such other things as may be deemed requisite, incidental or conducive to the attainment of the objects of the ICAV;
  - 4.2.4 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 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 any Subsidiary; and
  - 4.2.5 to do all such other things in any part of the world, whether as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, sub-contractors or otherwise and either alone or in partnership or conjunction with any person, ICAV or company, and to contract for the carrying on of any operation connected with the ICAV's business by any person, ICAV or company.
- 4.3 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.
- 4.4 Subject to the provisions of the Act, the business of the ICAV shall be commenced as soon after the registration of the ICAV as the Directors think fit.
- 4.5 The ICAV may pursue its investment objectives by utilising an intermediate investment vehicle, such as a trust, ICAV or company and by advancing monies for investment by such

trust, ICAV or company by way of loan, subscription for equity capital or otherwise, provided that where the ICAV uses an ICAV or company as an intermediate vehicle, the ICAV shall maintain beneficial ownership of all of the issued Share capital of such ICAV or company and the Shares in such ICAV or company and the assets of such ICAV or company shall be kept under the control of the Depositary or its sub-custodians.

## 5 **Base Currency**

The accounts of the ICAV shall be prepared in the Base Currency. The currency of denomination of each class shall be that as stated in the Prospectus.

## 6 **Expenses**

6.1 Without prejudice to any other charges, fees, expenses or liabilities expressly authorised by this Deed to be charged against Shareholders or against the assets of the ICAV, there may be payable out of the assets of the ICAV:-

6.1.1 all duties and charges and administration expenses, save to the extent that any such duties and charges shall have been charged to and paid by the Shareholders or any of them;

6.1.2 the expenses incurred in establishing the ICAV and in connection with the initial issue of Shares which expenses may be amortised by being written off over the first sixty calendar months of operation or such other period as may be determined by the Directors and disclosed in the Prospectus;

6.1.3 the expenses incurred by the Depositary, the AIFM and the Investment Manager in obtaining, maintaining or terminating any listing of any Shares on any Recognised Market or in complying with any undertaking given, or agreement entered into, in connection with, or any rules governing, any such listing and any fee or levy payable to the Central Bank;

6.1.4 all costs of printing and distributing all explanatory and/or offering memoranda, statements, notices, accounts and reports relating to the ICAV and all costs and expenses of publishing issue prices and repurchase prices and all other costs and expenses deemed by the Directors, after consulting the Auditors, to have been incurred in compliance with, or in connection with any change in or introduction of, any law or regulation (whether or not having force of law) or the compliance with any request or directive (whether or not having the force of law) of any governmental or other regulatory authority or agency;

6.1.5 all remuneration and expenses of the Depositary, the AIFM, the Investment Manager and the Administrator authorised by this Instrument to be paid out of the assets of the ICAV;

6.1.6 all legal and professional fees and charges incurred by the Depositary, the AIFM and the Investment Manager wholly and exclusively in the performance of their duties hereunder and all professional fees relating to the calculation, agreeing and/or contesting of taxation liabilities and reliefs;

6.1.7 all fees and charges payable by or in respect of the ICAV to the competent authority or any regulatory authority in Ireland or in any other country or territory

in which Shares are issued, marketed or sold and the costs and expenses (including all legal and professional fees and charges and printing costs) incurred in meeting on a continuing basis any applicable notification, registration and other requirements of each such competent or regulatory authority and any fees and expenses of representatives or agents in any such country or territory in relation thereto, and all costs and expenses of and incidental to preparing supplemental deeds for the purpose of ensuring that the ICAV complies with legislation coming into force after the date hereof including costs and expenses incurred in relation to the modification of this Instrument and the holding of any meetings of Shareholders in relation thereto;

- 6.1.8 the fees and expenses of the Auditors;
- 6.1.9 all costs and expenses incurred by the AIFM, the Investment Manager, the Depositary and / or by any of their delegates or appointees and / or any other person which are permitted by this Instrument;
- 6.1.10 all expenses incurred in the collection of income and the administration of the ICAV;
- 6.1.11 all tax payable in respect of the holding of or dealing with income from assets of the ICAV and in respect of allocation and distribution of income to Shareholders;
- 6.1.12 all charges and expenses incurred in relation to the registration of any Investments into and the transfer of any Investments out of the name of the Depositary or its sub-custodians or the holding of any Investments or the safe-keeping of Investments and/or any documents of title thereto; and
- 6.1.13 any and all expenses arising in respect of the termination or liquidation of the ICAV,

Provided that when issuing a class of Shares, the Directors may allocate commission, duties, charges and ad hoc and ongoing expenses on a basis which is different from that which applies in the case of Shares in other classes in the ICAV.

## **7 Depositary, AIFM, Investment Manager, Administrator and other Delegates**

- 7.1 The ICAV shall forthwith after its registration by the Central Bank and before the issue of any Shares, other than the Subscriber Shares, appoint a person, firm or corporation to act as Depositary with responsibility for the safe-keeping of all of the assets of the ICAV and any wholly owned Subsidiary appointed to indirectly hold assets.
- 7.2 Where the ICAV has appointed an AIFM that is an authorised AIFM, the terms of appointment of any Depositary may authorise such Depositary to avail of a contractual discharge of liability under the conditions set out in the AIFM Regulations.
- 7.3 The ICAV's property (subject to any exceptions permitted by the Central Bank) shall be entrusted to the Depositary for safekeeping. The types of assets and geographical regions in which the ICAV may invest shall be set out in the Prospectus.

- 7.4 The appointment of the Depositary shall be subject to the prior approval of the Central Bank. The Central Bank may in its discretion replace the Depositary with another corporation willing to act as Depositary where the Central Bank deems it necessary to do so.
- 7.5 If the Depositary shall have given to the ICAV notice of its desire to retire from its appointment or the appointment of the Depositary is terminated pursuant to the terms of this Instrument and no successor shall have been appointed in accordance with this Instrument within such period from the giving of such notice as may be specified in the Depositary Agreement, the Directors shall, subject to the approval of the Central Bank, repurchase the Shares or appoint a liquidator who shall wind up the ICAV and shall apply, thereafter, to the Central Bank to revoke the authorisation of the ICAV whereupon the Depositary's appointment shall terminate. For the avoidance of doubt, the Depositary shall not retire until a replacement depositary is appointed or the ICAV is wound up in accordance with this Instrument.
- 7.6 The ICAV has the power to appoint an entity to act as AIFM and the Directors may entrust to and confer upon the entity 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. The appointment of the AIFM (and of any replacement AIFM) shall be in accordance with the requirements of the Central Bank. The Central Bank may in its discretion replace the AIFM with another entity willing to act as AIFM where the Central Bank deems it necessary to do so. In all other cases, the termination of the appointment of the AIFM shall be consistent with the terms of the contract pursuant to which it was appointed and the protection of Shareholders.
- 7.7 The ICAV has the power to appoint a person, firm or corporation to act as Investment Manager. The appointment of the Investment Manager shall be in accordance with the requirements of the Central Bank.
- 7.8 The ICAV has the power to also appoint a person, firm or corporation to act as Administrator. The appointment of the Administrator shall be in accordance with the requirements of the Central Bank.
- 7.9 The ICAV has the power to appoint a person, firm or corporation to act as Distributor. The appointment of the Distributor shall be in accordance with the requirements of the Central Bank.
- 7.10 The ICAV may enter into arrangements with prime brokers or other parties, whereby assets of the ICAV are passed outside of the control of the Depositary and may be held as collateral for margin loans or other financing that is provided to the ICAV, held or transferred as collateral in connection with the hedging arrangements entered into on behalf of the ICAV or otherwise utilised by the prime broker for its own purposes, including in connection with securities lending. Under the terms of any such arrangements in relation to the assets of the ICAV being used as collateral and under applicable law, a secured party may be permitted to pledge, lend, rehypothecate or otherwise utilise for its own purposes such assets in connection with securities lending or other transactions entered into by the secured party. Further details with respect to the material provisions of any such contractual arrangements will be disclosed in the Prospectus.
- 7.11 The AIFM (or Investment Manager, as appropriate) will be entitled to receive an investment management fee payable out of the assets of the ICAV at an annual rate which will not

exceed 5.00% of the Net Asset Value of the ICAV, including any servicing fees (plus value added tax, if any, thereon). This fee shall be payable quarterly in advance provided that, in the event that the appointment of the AIFM (or Investment Manager, as appropriate) is terminated prior to the end of a quarter, the AIFM (or Investment Manager, as appropriate) shall reimburse the ICAV for a proportionate amount of such fee. This fee shall be payable in the Base Currency. This investment management fee shall be reduced by any servicing fees received by the AIFM (or Investment Manager, as appropriate) or any of its affiliates out of the assets of the ICAV or from any trusts in which the ICAV holds a beneficial interest. The annual management fee may be increased by up to 5% per annum of the amount of the management fee in the preceding year, subject to the maximum specified above. Any further increase is subject to the approval of the Shareholders in accordance with the provisions of Section 24 hereof. The AIFM (or Investment Manager, as appropriate) shall also be entitled to reimbursement out of the assets of the ICAV of all reasonable out-of-pocket expenses incurred for the benefit of the ICAV including expenses incurred by the Depositary and the Administrator in the performance of their duties and charged to the AIFM (or Investment Manager, as appropriate).

- 7.12 In addition to the management fee specified in Section 7.11 above, the AIFM (or Investment Manager, as appropriate) will be entitled to such incentive fee (the “**Incentive Fee**”) out of the assets of the ICAV as may be agreed between the Directors and the AIFM (or Investment Manager, as appropriate) from time to time and specified in the Prospectus but which shall not exceed 25% of the aggregate additional cash flow from investments made, net of expenses of the ICAV, in excess of the aggregate purchase price of such investments. Any increase in the Incentive Fee above this maximum amount is subject to the approval of the Shareholder in accordance with the provisions of Section 24 hereof. The amount of any Incentive Fee due to the AIFM (or Investment Manager, as appropriate) in respect of a Shareholder shall be calculated by the ICAV, or the Administrator as its delegate.
- 7.13 In addition to, or in lieu of, the management fee and Incentive Fee set out in Sections 7.11 and 7.12 above the Investment Manager may receive a quarterly operating and personnel expense fee (the “**Operating and Personnel Payment**”) equal to 6.5% of the Cash Receipts from Royalty Investments for such quarter from Royalty Investments and 0.25% of the Security Investment Values as of the end of such quarter. The Operating and Personnel Payment may be increased by up to 5% per annum of the amount of the operating and personnel expense fee in the preceding year, subject to the maximum specified above. Any further increase is subject to the approval of the Shareholders in accordance with the provisions of Section 24 hereof.
- 7.14 The Directors shall be entitled to pay a fee out of the assets of the ICAV in respect of the promotion and sale of Shares of each Class and related services in an amount which will not exceed 5% per annum of the average Net Asset Value of the relevant Shares (plus value added tax, if any, thereon). This fee shall accrue at each Valuation Point and be payable monthly in arrears in the Base Currency. The Directors may pay all or any part of this distribution fee to any Distributor or distribution adviser appointed by the ICAV in respect of such Distributor or distribution adviser’s services in the promotion, marketing and sale of the relevant Shares and ongoing servicing and/or maintenance of Shareholder accounts, including responding to enquiries of Shareholders regarding their ownership of units or their accounts with the ICAV (provided that a distribution fee will only be payable in respect of a particular Class if the services in question are available to all Shareholders in that Class) and acting as paying agent, or processing a bank to act as paying agent in respect of distributions and repurchases for Shareholders.

- 7.15 The Administrator shall be entitled to a fee payable out of the assets of the ICAV in respect of the administrative and transfer agency services provided to the ICAV in an amount which will not exceed 2.00% of the Net Asset Value of the ICAV subject to such minimum amount and per class of Share as shall be disclosed in the Prospectus (plus value added tax, if any, thereon). This fee shall accrue monthly and be payable monthly in arrears in the Base Currency.
- 7.16 The Depositary will be entitled to a fee in respect of its trustee and sake-keeping services out of the assets of the ICAV held on behalf of the ICAV in an amount which will not exceed 2.00% of the Net Asset Value of the ICAV subject to such minimum amount and per class of Share per ICAV as shall be disclosed in the Prospectus (plus value added tax, if any, thereon). The trustee and custody fees shall accrue monthly and be payable monthly in arrears in the Base Currency. The Depositary shall also be entitled to payment out of the assets of the ICAV of transaction charges and sub-custodian fees at rates not in excess of normal commercial rates. The Depositary shall also be entitled to be reimbursed out of the assets of the ICAV for all reasonable out-of-pocket expenses incurred by it and for the fees (which will not exceed normal commercial rates) and all reasonable out-of-pocket expenses of any sub-custodian appointed by the Depositary. For the purpose of securing payment of its fees and expenses, in the event of non-payment of such fees and expenses the Depositary may charge the assets of the ICAV which are maintained in the ICAV's accounts.
- 7.17 If at any time any and all obligations or liabilities to the Depositary for any unpaid sum due to the Depositary or any sub-custodian or securities system for or in connection with services rendered hereunder whether by way of an extension of credit or otherwise (including without limitation the purchase or sale of any foreign exchange or any agreement for the purchase or sale of foreign currency) shall not have been honoured and shall be overdue, the Depositary and any sub-custodian or securities system shall have the right, upon prior written notification to the ICAV of its intention to do so (to the extent that the provision of prior written notice is not prejudicial to the Depositary, sub-custodian or securities system), to retain or set-off, against such obligations or liabilities, any assets of the ICAV that the Depositary or any sub-custodian or securities system may hold directly or indirectly for the account of the ICAV, in any currency (including without limitation time deposits and all securities held hereunder) and, to the extent that there is insufficient cash available for this purpose to sell or otherwise realise any such assets and to apply the proceeds of any such sale or realisation in the satisfaction of such obligations or liabilities. The rights set out in this Section shall be in addition and without prejudice to any rights existing at common law, in equity, by statute or custom.
- 7.18 The AIFM (or its delegates) may establish one or more investment advisory committees (each, an "Advisory Committee") to consider and, on behalf of a Fund and its Shareholders, approve or disapprove, including for purposes of obtaining any consent or approval of, or on behalf of, Shareholders or a Fund required by applicable law any Fund transaction or other matter or fee and any matters presented to it, including, but not limited to, any transaction or matter involving a possible conflict of interest which the AIFM (or its delegates) determines to present to an Advisory Committee. The membership of an Advisory Committee will be determined from time to time, and will be subject to change, by the AIFM (or its delegates). The consent by any Advisory Committee acting on behalf of a Fund will be deemed to constitute the consent of the Fund and the Shareholders. A Fund may directly provide for or pay for the cost and expense of travel, accommodations, meals and beverages, materials and other costs related to a meeting of an Advisory Committee, and may reimburse the committee members for their expenses. In addition, to the extent an Advisory Committee

consists of persons who are not Shareholders or other direct or indirect beneficial owners of interests in a Fund, the relevant Fund will pay the reasonable compensation of such persons for serving on such Advisory Committee, as determined by the AIFM (or its delegate) in its sole discretion. To the extent permitted by applicable law, a committee member will not owe a fiduciary duty to the relevant Fund or its Shareholders. An Advisory Committee will not possess or exercise any power that, if possessed or exercised by a Shareholder, would constitute participation in the control of the business of a Fund. To the extent permitted by applicable law, no member of an Advisory Committee (including any organisation retained to serve as or in place of an Advisory Committee, as described below), nor any Shareholder that has designated a member of an Advisory Committee, will be liable for any act or omission performed or failed to be performed by such person as a member of such committee or in designating a member of such committee, or for any losses, claims, costs, damages or liabilities arising therefrom, in the absence of wilful misfeasance, bad faith, gross negligence or criminal wrongdoing. The relevant Fund may indemnify members of an Advisory Committee (including any organisation retained to serve as or in place of an Advisory Committee, as described below) and any Shareholder that has designated a member of an Advisory Committee against any losses, claims, costs, damages or liabilities to which such person may become subject in connection with any matter arising out of or in connection with any act or omission performed or failed to be performed by such person as a member of an Advisory Committee or in designating a member of an Advisory Committee, except to the extent that any such loss, claim, cost, damage or liability results solely from the wilful misfeasance, bad faith or gross negligence of, or any criminal wrongdoing by, such person.

## **8 Share Capital**

- 8.1 The actual value of 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 Sections 19 and 20 hereof.
- 8.2 The Share capital of the ICAV shall be equal to the value for the time being of the issued Share capital of the ICAV. The ICAV may issue up to 500,000,000,002 Shares of no par value. The maximum issued Share capital of the ICAV shall be 500,000,000,000 Shares of no par value and the minimum issued Share capital of the ICAV shall be USD2.00 represented by two Subscriber Shares of no par value issued for USD1.00 each.
- 8.3 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to issue Shares in the ICAV provided that the total amount of issued Share capital does not exceed the maximum issued Share capital set out in Section 8.2 above.
- 8.4 The Subscriber Shares shall not participate in the dividends or assets of the ICAV.
- 8.5 Shares may be issued with such voting rights and rights to participate in the dividends and assets of the ICAV as the Directors from time to time may determine and set forth in the Prospectus.
- 8.6 The liability of the Shareholders shall be limited to the amount, if any, unpaid on the Shares respectively held by them without prejudice to any other liability to which a Shareholder may be subject as provided by or under the Act. The Shareholders shall not be liable for the debts of the ICAV.



- 8.7 The Directors may from time to time determine to provide Shareholders in certain classes with preferential treatment (including but not limited to, in relation to information disclosed to such Shareholders and redemption and dealing terms for such classes). Any preferential treatment will be set out in the Prospectus (so as to ensure the fair treatment of all Shareholders) which shall describe any instance where a class receives preferential treatment, a description of that preferential treatment and the types of Shareholders who will be permitted to subscribe for such classes and, where relevant, their legal or economic links to the ICAV (or the AIFM).

## **9 Classes of Shares**

- 9.1 The ICAV may be comprised of one or more classes of Shares. With the prior approval of the Central Bank, the Directors from time to time may establish one or more separate classes of Shares on such terms as the Directors may resolve. The creation of such one or more separate classes of Shares shall be in accordance with this Instrument, the Prospectus and the requirements of the Central Bank.
- 9.2 The investment objectives of (and any specific restrictions applicable to) the ICAV are set out in the Prospectus. Subject to any specific provisions set out in the Prospectus, the investment and borrowing powers of the ICAV are all those contained in the AIFM Regulations and permitted under the Act.
- 9.3 The Directors may from time to time 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 repurchased. 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 Section 12.10 hereof.
- 9.4 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.
- 9.5 Any outstanding classes of Shares, in the discretion of the Directors, be redesignated and converted (after the payment or accrual of all applicable fees and expenses) into Shares of another Class at the prevailing Net Asset Value per Share of such other class.

## **10 Register of Shareholders**

- 10.1 A Shareholder shall have his title to Shares evidenced by having his name, address and number of Shares held by him entered in the Register which shall be maintained in the manner required by law, provided that no person holding less than the Minimum Subscription shall be entered on the Register as a Shareholder. No person shall be registered as a Shareholder of the ICAV unless such person shall have certified that he is a Qualifying Investor (or a Knowledgeable Investor) and that he is aware of the risks involved in the proposed investment and of the fact that inherent in such is the potential to lose all of the sum invested. Where the ICAV has appointed an AIFM that is an Authorised AIFM, the ICAV may only be marketed within the European Union to investors who are professional clients (as defined in the AIFM Regulations) unless the EU member state in question permits, under

the laws of that EU member state, the ICAV to be sold to other categories of investors and this permission encompasses the other categories of investors set out in the definition of “Qualifying Investor” or “Knowledgeable Investor” in this Instrument. Where the ICAV has not appointed an AIFM that is an Authorised AIFM, the ICAV may only be marketed investors in accordance with local requirements in the jurisdiction of the relevant investor and where the investors are Qualifying Investors or Knowledgeable Investors.

- 10.2 The ICAV shall not issue Share certificates to a Shareholder whose name appears in the Register but, in such case, a statement of Shareholding (a “**holding statement**”) in respect of Shares for which no certificates are to be issued shall be sent to each holder of such Shares in such form as the Directors may decide if so requested by a Shareholder. A holding statement shall not constitute a document of title to the Shares to which it relates and shall confirm the entry or continued listing of the Shares in question on the Register.
- 10.3 The Directors shall cause to be entered in the Register the following particulars:
- 10.3.1 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);
  - 10.3.2 a statement of the number of Shares held by each Shareholder, which statement shall distinguish each Share by its number (if any), the class of Shares (if any) to which the Share belongs, and of the amount paid or agreed to be considered as paid on such Shares;
  - 10.3.3 the date on which each person was entered in the Register as a Shareholder, and
  - 10.3.4 the date on which any person ceased to be a Shareholder.
- 10.4 The Register shall be kept:
- 10.4.1 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; and
  - 10.4.2 available for inspection in accordance with the Act at the office of the Administrator.
- 10.5 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 confirmation of ownership or Share certificate, and the issue of a confirmation of ownership, or Share certificate for a Share to the first named of several joint holders shall be sufficient delivery to all.
- 10.6 Where two or more persons are registered as the holders of any Shares they shall be deemed to hold the same as joint tenants, subject to the provisions following:
- 10.6.1 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;
  - 10.6.2 any one of such joint holders may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;

- 10.6.3 only the first-named of the joint holders of a Share shall be entitled to delivery of the Share certificate relating to such Share or to receive notices from the ICAV to attend general meetings of the ICAV. Any Share certificate 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;
- 10.6.4 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
- 10.6.5 for the purpose of the provisions of this Section, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.

## 11 **Dealing Days**

Subject as hereinafter provided, all issues and repurchases of Shares shall be effected or made with effect from a Dealing Day provided that the ICAV may provisionally allot Shares on a Dealing Day on the basis that the Shares shall be issued on receipt of cleared subscription monies and in the event that the ICAV does not receive the cleared subscription monies in respect of such allotment within the period specified in the Prospectus or within such other reasonable time period as may be determined by the Directors, such provisional allotment may be cancelled.

## 12 **Issue of Shares and Conversion of Shares**

12.1 Subject as hereinafter provided, the ICAV on or with effect from any Dealing Day on receipt by it of the following:

- 12.1.1 an application for Shares in such form as the ICAV from time to time may determine; and
- 12.1.2 such declarations as to the applicant's status, residence and otherwise as the ICAV from time to time may require; and
- 12.1.3 payment for the Shares within the usual time limits in such manner as the ICAV from time to time may specify, provided that if the ICAV receives payment for the Shares in a currency other than the Class Currency for such Shares, the ICAV shall convert or arrange for the conversion of the monies received into the Class Currency and shall be entitled to deduct therefrom all expenses incurred in the conversion,

may issue or allot Shares in any class at the Net Asset Value then obtaining for each Share in such class or at such other price as may be disclosed in the Prospectus from time to time. Any such issue of Shares shall be in accordance with the requirements of this Instrument, the Prospectus and the requirements of the Central Bank.

12.2 The ICAV shall be entitled to receive securities or other Investments from an applicant for Shares in any class 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.

- 12.3 No issue shall be made in respect of an application which would result in the applicant investing less than the Minimum Subscription or in the Shares being held by a person who is not a Qualifying Investor or a Knowledgeable Investor (save in both cases in respect of the holder(s) of the Subscriber Shares).
- 12.4 All information required under the AIFM Rules as specified in the Prospectus will be made available to prospective investors prior to subscriptions being accepted.
- 12.5 The Directors shall be entitled to issue Fractional Shares in any class where the subscription monies received by the ICAV are insufficient to purchase an integral number of Shares in that class.
- 12.6 The Directors may determine to issue Shares which are only partly paid at the time of issue, subject to such conditions as may be specified in the Prospectus.
- 12.7 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.
- 12.8 The Directors in their absolute discretion may refuse to accept any application for Shares in the ICAV or any application to convert Shares in any class to Shares in another class or may accept any such application in whole or in part.
- 12.9 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.
- 12.10 If at any time the Directors determine, in their sole discretion, that an incorrect number of Shares was issued to a Shareholder pursuant to this section (including because the Net Asset Value in effect on the Dealing Day was incorrect), the Directors may implement such arrangements as they determine, in their sole discretion, are required for an equitable treatment of such Shareholder, which arrangements may include redeeming a portion of such Shareholder's shareholding for no additional consideration or issuing new Shares to such Shareholder for no consideration, as appropriate, so that the number of Shares held by such Shareholder following such redemption or issuance, as the case may be, is the number of Shares as would have been issued at the correct Net Asset Value.
- 12.11 Subject as hereinafter provided, a holder of Shares of any class (the "**Original Shares**") may, with the prior consent of the Directors, from time to time convert all or any portion of such Shares ("**Conversion**") having such minimum value at the time of Conversion as may be determined by the Directors from time to time into Shares of another class (the "**New Shares**") either existing or agreed to be brought into existence on such terms as are disclosed in the Prospectus. Any Original Shares may also, in the discretion of the Directors, be converted into New Shares at the prevailing Net Asset Value per Share of such other New Shares in circumstances set out in the Prospectus.

### 13 **Rights in Scheme Property**

- 13.1 The assets of the ICAV shall belong exclusively to the ICAV and no Shareholder shall have any interest in the underlying assets of the ICAV.

- 13.2 The rights which attach to each Share of any given class are as follows:
- 13.2.1 the right, in accordance with this Instrument, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of ICAV property;
  - 13.2.2 the right, in accordance with this Instrument, to vote at any annual general meeting of Shareholders of the ICAV or at any meeting of the Shareholders of a class of Shares; and
  - 13.2.3 such other rights as may be provided for in this Instrument in relation to Shares of that class, subject to the regulations and conditions imposed by the Central Bank.

#### 14 **Price Per Share**

- 14.1 The Initial Price per Share at which the Shares of any class shall be allocated or issued and the commission payable on the Initial Price and the Initial Offer Period in relation to any class shall be determined by the Directors.
- 14.2 The price per Share for any class of Shares on any Dealing Day following the Initial Offer Period shall be the Net Asset Value per Share in such class applicable in the case of issues of Shares in such class as determined in accordance with Section 19 and Schedule 2 or such other price as may be determined by the Directors and disclosed in the Prospectus from time to time.
- 14.3 Shares may only be issued at fixed price after the Initial Offer Period where existing Shareholders will not be prejudiced.
- 14.4 The Directors may require an applicant for Shares to pay to the ICAV in addition to the price per Share such commission and duties and charges in respect of the Shares as the Directors from time to time may determine.
- 14.5 Notwithstanding any other provision of this Instrument, in calculating the price per Share for any class of Shares on any Dealing Day when there are net subscriptions the Directors, or their delegate, may adjust the subscription price by adding an anti-dilution levy to cover dealing costs and to preserve the value of the underlying assets of the ICAV.
- 14.6 Subject to the provisions of the Act and the AIF Rulebook, the Directors on or with effect from any Dealing Day may issue Shares in any class on terms providing for settlement to be made by the vesting in the Depositary, on behalf of the ICAV of any Investments for the time being held or which may be held hereunder and in connection therewith the following provisions shall apply:
- 14.6.1 the assets to be transferred in to the ICAV must qualify as investments of the ICAV in accordance with the investment objectives, policies and restrictions which are set out in the Prospectus;
  - 14.6.2 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;

- 14.6.3 the number of Shares to be issued shall be not more than the number which would have been issued for settlement in cash as hereinbefore provided on the basis that the amount of such cash was an amount equal to the value of the Investments to be so vested in the ICAV as determined by the Directors on the relevant Dealing Day;
- 14.6.4 no Shares shall be issued until the Investments shall have been vested in, or arrangements have been made to vest the Investments in, the Depositary or its sub-custodian, nominee or agent and the Depositary is satisfied that there is unlikely to be any material prejudice to the Shareholders; and
- 14.6.5 any duties and charges 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, or by the ICAV.
- 14.7 No Shares shall be issued on any Dealing Day on which the determination of the Net Asset Value of such Shares is suspended pursuant to Section 19.3 hereof.
- 14.8 Notwithstanding any other provision of this Instrument in calculating the price per Share on any Dealing Day in respect of any class in respect of which it has been determined to charge a performance fee, the Directors may from time to time, and in their sole discretion, determine that the ICAV shall apply a performance fee equalisation formula and will disclose details of such intention in the Prospectus. In such circumstances, the price per Share of the relevant Shares will be deemed to include an equalisation amount which will represent a portion the accrued performance fee of the relevant class up to the date of the subscription.
- 15 Qualified Holders**
- 15.1 The ICAV may from time to time impose such restrictions as it think necessary for the purposes of ensuring that no Shares of the ICAV are acquired or held by any person in circumstances:
- 15.1.1 which constitute a breach of the law or governmental regulation (or any interpretation of a law or regulation by a competent authority) of any country or territory; or
- 15.1.2 which would (or would if other Shares were acquired or held in like circumstances) result in the ICAV incurring any liability to taxation or suffering any other adverse consequence (including a requirement to register under any securities or investment or similar laws or governmental regulation of any country or territory); or
- 15.1.3 which constitutes a breach of this Instrument or the Prospectus as to eligibility or entitlement to hold such Shares and, in this connection, the ICAV may, inter alia, reject at its discretion any subscription for, sale or transfer of, Shares or any conversion.
- 15.2 Details of the specific restrictions imposed by the ICAV, the provisions applicable to a Shareholder who acquires or comes to hold or own Shares in one of the relevant circumstances listed in Section 15.1 above (or where the ICAV has reason to believe this to be the case), the Shareholder's obligations and the ICAV's rights and powers in this regard are set out in Schedule 1 to this Instrument.

## 16 Transfer and Transmission of Shares

- 16.1 All transfers of Shares shall be effected by a transfer in writing in any usual or common form and every form of transfer shall state the full name and address of the transferor and transferee.
- 16.2 The instrument of transfer shall be signed by or on behalf of the transferor and need not be signed by the transferee, and shall meet such requirements as may be specified in the Prospectus or as may otherwise be required by the Directors to prove the right of the transferor to transfer the Shares. The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect thereof.
- 16.3 A transfer of Shares may not be registered if such transfer would result in the transferor or the transferee holding a number of Shares less than the Minimum Subscription. Only Qualifying Investors and Knowledgeable Investors who certify that they are Qualifying Investors and that they are 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, shall be entered on the Register as a Shareholder and shall be permitted to invest in the ICAV. The Directors shall not register a transfer of Shares unless the transferee is a Qualifying Investor or Knowledgeable Investor and has provided such evidence of identity and / or status as the ICAV or its delegates may require.
- 16.4 The Directors may decline to register any transfer of Shares 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. The Directors may decline to register a transfer where the transfer would result in a contravention of any provision of this Instrument or would produce a result inconsistent with any provision of the Prospectus or where the transferee fails to provide the necessary declarations as to tax residency as may be requested by the ICAV.
- 16.5 If the Directors decline to register a transfer of any Share they shall, within two months after the date on which the instrument of transfer was lodged with the ICAV, give to the transferee written notice of the refusal. For the avoidance of doubt, the Directors are not required to register a transfer or give notice to any person of a refusal to register a transfer where registering the transfer or giving the notice would result in a contravention of any provision of any law (including any law that is for the time being in force in a country or territory other than the State).
- 16.6 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** (but subject to Section 19.3 above) that such registration of transfers shall not be suspended for more than thirty days in any year.
- 16.7 All instruments of transfer which shall be registered shall be retained by the ICAV, but any instrument of transfer which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.
- 16.8 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 Section 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.

- 16.9 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 or by the Shareholder under legal disability before such disability.
- 16.10 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.

## 17 **Repurchase of Shares**

- 17.1 The ICAV is established as a closed-ended ICAV with no right of redemption, subject to any conditions set down by the Central Bank.
- 17.2 Prior to the expiry of the Closed-Ended Period the Directors shall, at an extraordinary general meeting of the ICAV, propose a Special Resolution that the ICAV shall continue its business as a closed-ended fund for such further period (an "**Extended Closed Ended Period**") as the Directors may propose in accordance with the requirements of the Central Bank (a "**Continuation Resolution**"). If a Continuation Resolution is passed, the Directors shall propose, prior to the expiry of the relevant Extended Closed Ended Period, a Continuation Resolution in respect of a further Extended Closed Ended Period.
- 17.3 In the event that a Continuation Resolution is not passed at an extraordinary general meeting at which it is proposed, the Directors shall put alternative proposals to the Shareholders to undertake one of the following actions:
- (a) convert the ICAV to an open-ended Qualifying Investor AIF the relevant details of which will be disclosed in the Prospectus; or
  - (b) redeem all outstanding Shares of the ICAV and thereafter apply to the Central Bank for revocation of the ICAV's Qualifying Investor AIF authorisation; or
  - (c) wind-up and apply to the Central Bank for revocation of the ICAV's Qualifying Investor AIF authorisation.



- 17.4 The repurchase price per Share in any class of Shares shall be the Net Asset Value per Share in that class applicable in the case of a repurchase of such Share obtaining on the Dealing Day on which the repurchase request is effective, less such commission and duties and charges as may be set out in the Prospectus such commission shall not exceed 5% of the Net Asset Value of the Shares subject to repurchase.
- 17.5 Payment to a Shareholder under this Section will ordinarily be made in the relevant Class Currency, or at the discretion of the Directors in any other freely convertible currency at the rate of exchange for conversion on the date of payment and shall be despatched in accordance with the time limits set out in the Prospectus.
- 17.6 On repurchase of part only of the Shares held by any Shareholder, the Directors shall procure that a revised Share certificate (if any) or other evidence of ownership shall be issued free of charge for the balance of such Shares.
- 17.7 In the event that a repurchase of part only of a Shareholder's holding of Shares leaves the Shareholder holding less than the Minimum Subscription the Directors may, if they think fit, require that the ICAV repurchase the whole of that Shareholder's holding.
- 17.8 A distribution in respect of a redemption may also be made in kind, at the discretion of the Directors, after consultation with the AIFM (or the Investment Manager, as appropriate), provided that where the redemption request represents less than 5 per cent of the Net Asset Value of the ICAV, the redemption in kind will only be made with the consent of the redeeming Shareholder. The assets to be transferred shall be selected at the discretion of the Directors with the approval of the Depositary and taken at their value used in determining the redemption price of the Shares being so repurchased. As a result, such distributions will only be made if the Directors and the Depositary consider that they will not materially prejudice the interests of the Shareholders as a whole and the Depositary is satisfied that the assets distributed are equivalent to the amount of the distribution declared. Shareholders will bear any risks of the distributed securities and may be required to pay a brokerage commission or other costs in order to dispose of such securities. If a Shareholder so requests, the AIFM shall sell the assets to be distributed to that Shareholder and distribute the cash proceeds to the Shareholder.
- 17.9 Redemptions in specie will only be accepted by the ICAV where the Depositary is satisfied that the terms of the exchange will not be such as are likely to result in any material prejudice to Shareholders.
- 17.10 At any time after the issue of Shares, the ICAV shall be entitled to repurchase the Subscriber Shares or to procure the transfer of the Subscriber Shares to any person who may be a qualified holder of Shares in accordance with Section 15 hereof.
- 17.11 In the event that the ICAV is required to account for, deduct or withhold tax on a disposal of Shares by a Shareholder (whether upon a repurchase of Shares, a transfer of Shares or otherwise) or upon payment of a distribution to a Shareholder (whether in cash or otherwise), the Directors shall be entitled to require the compulsory repurchase and cancellation of all or part of the Shares of such Shareholder for the purposes of obtaining sufficient monies to discharge any such tax liability. The Directors shall instruct the Depositary to place the repurchase proceeds received in respect of such a repurchase of Shares in a separate account so that such monies are separately identifiable for the purposes of discharging any applicable tax liability as aforesaid.

- 17.12 The ICAV may also compulsorily redeem Shares in order to discharge performance related fees which are due and payable to the AIFM and / or the Investment Manager, in such circumstances as are set out in the Prospectus from time to time.
- 17.13 Where the ICAV receives a request for the repurchase of Shares from any Shareholder in respect of which the ICAV is required to account for, deduct or withhold taxation, the ICAV shall be entitled to deduct from the proceeds of repurchase such amount of taxation as the ICAV is required to account for, deduct or withhold and shall arrange to discharge the amount of taxation due
- 17.14 Where the ICAV proposes to amend the maximum redemption fee or maximum annual fee charged by the Investment Manager disclosed in the Prospectus and paid directly out of the assets of such Fund, such increase shall be approved by 75% of votes cast in favour of the increase where there is no realistic opportunity to redeem a shareholding, and in all other circumstances, by 50% of the votes cast.

## 18 **Total Repurchase**

- 18.1 The ICAV may redeem all of its Shares or class in issue if:
- 18.1.1 the redemption of the Shares in a class is approved by a resolution in writing signed by all of the holders of the Shares in that class, as appropriate;
  - 18.1.2 the Net Asset Value of the ICAV, or of a class of Shares, does not exceed or falls below such amount as may be determined from time to time by the Directors;
  - 18.1.3 the Directors deem it appropriate because of adverse political, economic, fiscal or regulatory changes affecting the ICAV or relevant class of Shares;
  - 18.1.4 where the Depositary has served notice of its intention to retire and an alternative custodian has not been appointed within 90 days from the date of such notice; or
  - 18.1.5 in such other circumstances as may be set out in the Prospectus from time to time.
- 18.2 Where a repurchase of Shares pursuant to Section 17 or 18 would result in the number of Shareholders falling below two or such other minimum number of Shareholders as the Act may stipulate as the legal minimum number of Shareholders in an ICAV or would result in the issued Share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain as the Act may stipulate, the ICAV may defer the repurchase of such Shares the repurchase 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 repurchase in such manner as it may deem to be fair and reasonable and as may be approved by the Depositary.

## 19 **Determination of Net Asset Value and Temporary Suspension of Dealings**

- 19.1 The ICAV shall determine the Net Asset Value of the ICAV as at each Valuation Point. The Net Asset Value shall be expressed in the Base Currency as a per Share figure for the issue of Shares and for the repurchase of Shares, respectively as appropriate

- 19.2 The Net Asset Value per Share of the ICAV shall be calculated by dividing the assets of the ICAV less its liabilities by the number of Shares in issue and shall be determined in accordance with Section 20 and Schedule 2 hereof.
- 19.3 The Directors may, in consultation with the Depositary, temporarily suspend the determination of the Net Asset Value and the sale, issue, valuation, allotment and/or redemption of Shares during:
- 19.3.1 any period when any organised exchange on which a substantial portion of the investment for the time being comprised in the ICAV are quoted, listed, traded or dealt in is closed otherwise than for ordinary holiday, or during which dealings in any such organised exchange are restricted or suspended;
  - 19.3.2 any period where, as a result of political, military, economic or monetary events, conditions of financial markets or other circumstances beyond the control, responsibility and power of the Directors, the disposal or valuation of investments for the time being comprised in the ICAV cannot, in the opinion of the Directors, be effected or completed normally or without prejudicing the interest of Shareholders;
  - 19.3.3 any breakdown in the means of communication normally employed in determining the value of any investments for the time being comprised in the ICAV or during any period when for any other reason the value of investments for the time being comprised in the ICAV cannot, in the opinion of the Directors, be promptly or accurately ascertained;
  - 19.3.4 any period when the ICAV is unable to repatriate funds for the purposes of making redemption payments or during which the realisation of investments for the time being comprised in the ICAV, or the transfer or payment of the funds involved in connection therewith cannot, in the opinion of the Directors, be effected at normal prices;
  - 19.3.5 any period when, as a result of adverse market conditions, the payment of redemption proceeds may, in the opinion of the Directors, have an adverse impact on the ICAV or the remaining Shareholders;
  - 19.3.6 any period (other than ordinary holiday or customary weekend closings) when any market or exchange which is the main market or exchange for a significant part of the instruments or positions is closed, or in which trading thereon is restricted or suspended;
  - 19.3.7 any period when proceeds of any sale or repurchase of the Shares cannot be transmitted to or from the account of the ICAV;
  - 19.3.8 any period in which the repurchase of the Shares would, in the opinion of the Directors, result in a violation of applicable laws;
  - 19.3.9 any period after a notice convening a meeting of Shareholders for the purpose of dissolving the ICAV has been issued, up to and including the date of such meeting of Shareholders;

- 19.3.10 any period during which dealings in a collective investment scheme in which the ICAV has invested a significant portion of its assets are suspended; or
- 19.3.11 any period when the Directors determine that it is in the best interests of the Shareholders to do so.
- 19.4 The ICAV may elect to treat the first Business Day on which the conditions giving rise to the suspension have ceased as a substitute Dealing Day in which case the Net Asset Value calculations and all issues and repurchases of Shares shall be effected on the substitute Dealing Day.
- 19.5 Any such suspension shall be published by the ICAV in such manner as it may deem appropriate to the persons likely to be affected thereby if in the opinion of the ICAV, such suspension is likely to continue for a period exceeding fourteen days and any such suspension shall be notified immediately to the Central Bank and in any event within the same Business Day.
- 20 Valuation of Assets**
- 20.1 The Net Asset Value of the ICAV and the ICAV's assets shall be determined in accordance with requirements of the Central Bank, and subject thereto, in accordance with Schedule 2 to this Instrument. The Net Asset Value per Share will be made available to Shareholders in the manner described in the Prospectus.
- 21 Side Pockets**
- 21.1 From time to time, a portion of the ICAV's assets may consist of one or more illiquid investments (including investments that are illiquid at the time of purchase) that the Directors determine, in their sole discretion, to be subject to practical, regulatory, contractual or legal restrictions on disposition (each such investment or portfolio of investments is referred to herein as a "**Side Pocket Investment**").
- 21.2 Each Shareholder who is a Shareholder at the time a Side Pocket Investment is acquired, or at the time an existing investment or portfolio of investments is determined to be a Side Pocket Investment, may be issued shares in such class (each a "**Side Pocket Class**") with regard to such Side Pocket Investment as the Directors may determine ("**Class S Shares**").
- 21.3 Upon identifying an investment or portfolio of investments as a Side Pocket Investment, a pro-rata portion of each existing Shareholder's shares (and, if such Shareholder holds more than one class of shares, pro-rata according to such Shareholder's holdings of such shares) will be converted to Class S Shares of a new Side Pocket Class by way of redemption and re-issue, without any obligation on the Shareholders or the ICAV to take any other action and without the requirement for any notice to be served on such Shareholder.
- 21.4 Shares which are redeemed and re-issued as Class S Shares may include shares in respect of which a suspension or a partial suspension of redemptions is in effect on the date on which such redemption and re-issue occurs and the entire holding of any relevant Shareholders on the Dealing Day prior to the implementation of the suspension or partial suspension of redemptions may be taken into account in calculating the pro rata portion of shares held by such Shareholder which are to be redeemed and re-issued as Class S Shares.

21.5 Class S Shares of a new Side Pocket Class will be issued to a Shareholder in a Base Currency amount equal to (i) the aggregate value of such Shareholder's shares divided by the aggregate value of all of the issued and outstanding shares (excluding for this purpose, any Class S Shares then outstanding and in the event that a suspension or a partial suspension of redemption is in effect on the date of such issue, calculated based on the shares in issue on the last Dealing Day on which no suspension or partial suspension of redemptions was in effect) multiplied by (ii) the book value of the Side Pocket Investment attributable to the relevant Class S Shares.

21.6 Members who purchase shares after a Fund acquires a Side Pocket Investment are not entitled to receive any Class S Shares with respect to such Side Pocket Investment or to participate in the gain, loss or income relating to such Class S Shares. For the purpose of determining the number of Class S Shares in a Side Pocket Class to be issued to each Member, the initial Net Asset Value per Class S Share of such Side Pocket Class shall be such amount as the Directors may determine. Class S Shares may also be designated in the Class Currency of any shares which were redeemed in conjunction with the issue of such Class S Shares.

## 22 **General Meetings**

22.1 All general meetings of the ICAV shall be held in Ireland.

22.2 Subject to Section 22.3, the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year. 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** so long as 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 operation it need not hold it in the year of its incorporation or in the following year.

22.3 The Directors may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to all Shareholders. Any such election 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 Section 22.3 has effect for a year, one or more Shareholders of the ICAV holding, or together holding, not less than 10% of the voting rights in the ICAV or the auditors of the ICAV 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.

22.4 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.

22.5 The Directors may call an extraordinary general meeting whenever they think fit and extraordinary general meetings shall be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as provided by the Act.

## 23 **Notice of General Meetings**

23.1 At least twenty-one 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.

23.2 The Directors, the AIFM, the Investment Manager, the Depositary, the Administrator and the Auditors shall each be entitled to receive notice of, and attend and speak at, any general meeting of the ICAV.

23.3 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.

23.4 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.

## 24 **Proceedings at General Meetings**

24.1 All business shall be deemed special that is transacted at an extraordinary general meeting and also all business that is transacted at an annual general meeting, with the exception of the consideration of the accounts and the reports of the Directors and Auditors, 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.

24.2 No business shall be transacted at any general meeting unless a quorum is present. Two Shareholders holding voting Shares present either in person or by proxy shall be a quorum for a general meeting. A representative of a corporation authorised pursuant to Section 25.12 to be present at any meeting of the ICAV shall be deemed to be a Shareholder for the purpose of a quorum.

24.3 If within half an hour from the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by 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.

24.4 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 such other Director be present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors be present, or if all the Directors present decline to take the chair, the Shareholders present shall choose some Shareholder present to be chairman.

24.5 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 days or more ten 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.

- 24.6 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands of those Shareholders holding voting Shares, unless a resolution is not passed unanimously on such show of hands, in which case such resolution shall be decided on a poll. Unless a poll is so taken, 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.
- 24.7 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.
- 24.8 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.
- 24.9 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 be entitled to a second or casting vote.
- 24.10 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 days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 24.11 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.
- 24.12 A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- 24.13 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 with the consent in writing of the holders of three-fourths of the issued Shares of that class, or with the sanction of an Extraordinary Resolution passed at a separate general meeting of the holders of the Shares of that class, to which the provisions of this Instrument relating to general meetings shall mutatis mutandis apply, save that the quorum at any such general meeting shall be two or more Shareholders present in person or by proxy together holding at least one-third of the Shares of the relevant class.

## 25 **Votes of Shareholders**

- 25.1 Subject to any special rights or restrictions for the time being attached to any class of Shares in accordance with the requirements of the Central Bank, each Shareholder shall be entitled to such number of votes as shall be produced by dividing the aggregate net asset value of that Shareholder's Shareholding (expressed or converted in Base Currency, calculated as of the relevant record date and excluding, where appropriate, the impact of any Class Currency hedging) by one. Where a separate written resolution or general meeting of a

particular class of Shares is held, in such circumstances, the Shareholder's votes shall be calculated by reference only to the net asset value of each Shareholder's Shareholding in that particular class, as appropriate. The Subscriber Shareholders shall have one (1) vote for each Subscriber Share held. The "relevant record date" for these purposes shall be a date being not more than thirty (30) days prior to the date of the relevant general meeting or written resolution as determined by the Directors. In relation to a resolution which in the opinion of the Directors affects more than one (1) class of Shares, such resolution shall be deemed to have been duly passed only if, in lieu of being passed through a single meeting of the Shareholders of such class of Shares, such resolution shall have been passed at a separate meeting of the Shareholders of each such classes. The Directors may in their discretion create classes which shall be designated as non-voting Shares and the holders of such Shares will not have the right to vote at any meeting of the ICAV.

- 25.2 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 in respect of the Shares.
- 25.3 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.
- 25.4 On a poll votes may be given either personally or by proxy.
- 25.5 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.
- 25.6 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or if the appointer is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. 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.
- 25.7 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.
- 25.8 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 less than forty-eight hours (or such other time as the Directors may determine at their discretion) before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and if the aforesaid conditions are not complied with the instrument of proxy shall not be treated as valid.
- 25.9 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.

- 25.10 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. 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.
- 25.11 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 notice 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.
- 25.12 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.
- 25.13 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 of the ICAV duly convened and held, and may consist of several documents in like form each signed by one or more persons, and if described as a Special Resolution shall be deemed to be a Special Resolution within the meaning of the Act. Any such resolution shall be served on the ICAV.
- 25.14 The provisions of Sections 22, 23, 24 and 25 shall apply *mutatis mutandis* to meetings of each class of Shareholders.

## 26 **Directors**

- 26.1 Unless otherwise determined by the ICAV by Ordinary Resolution, the number of the Directors shall not be less than two nor more than twelve.
- 26.2 A Director need not be a Shareholder.
- 26.3 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.
- 26.4 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 aggregate remuneration of the Directors shall not exceed USD150,000 (or such other sum as the Directors may from time

- to time determine and disclose to the Shareholders). Such remuneration shall be deemed to accrue from day to day. 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.
- 26.5 The Directors may in addition to such remuneration as is referred to in Section 26.4 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.
- 26.6 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.
- 26.7 The office of a Director shall be vacated by a Director in any of the following events, namely:
- 26.7.1 if he resigns his office by notice in writing signed by him and left at the registered office of the ICAV;
  - 26.7.2 if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - 26.7.3 if he becomes of unsound mind;
  - 26.7.4 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;
  - 26.7.5 if he is requested by a majority of the other Directors (not being less than two in number) to vacate office; or
  - 26.7.6 if he is removed from office by an Ordinary Resolution, in accordance with section 62 of the Act.
- 26.8 At least 10 days previous notice in writing shall be given to the ICAV of the intention of any Shareholder or Shareholders to propose any person other than a retiring Director for election to the office of Director and such notice shall be accompanied by notice in writing signed by the person to be proposed confirming his willingness to be appointed **PROVIDED ALWAYS** that if the Shareholders present at a general meeting unanimously consent, the chairman of such meeting may waive the said notices and submit to the meeting the name of any person so nominated, provided such person confirms in writing his willingness to be appointed.
- 26.9 At a general meeting, a motion for the appointment of two or more persons as Directors of the ICAV 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.
- 26.10 Subject to the requirements of the Central Bank, any Director may at any time by instrument 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.

- 26.11 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.
- 26.12 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 appointer as a Director and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointer) 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 appointer is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors and for the purposes of affixing the ICAV seal shall be as effective as the signature of his appointer. 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 Section shall also apply *mutatis mutandis* to any meeting of any such committee of which his appointer 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.
- 26.13 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 appointer as such appointer may by notice in writing to the ICAV from time to time direct.

## 27 **Directors, Offices and Interests**

- 27.1 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.
- 27.2 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.
- 27.3 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.
- 27.4 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.

- 27.5 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.
- 27.6 Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any material interest of his, a Director notwithstanding his office:
- 27.6.1 may be a party to, or otherwise interested in, any transaction or arrangement with the ICAV or in which the ICAV is interested; and
- 27.6.2 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.
- 27.7 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 company 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.
- 27.8 A copy of every declaration made and notice given in relation to a Director's Shares shall be entered within three days after the date of making or giving thereof in a book kept for this purpose. Such book shall be open for inspection during normal business hours without charge by any Director, Secretary, Auditor or Shareholder at the office of the Administrator 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 by any Shareholder or holder of debentures of the ICAV.
- 27.9 For the purposes of this Section:
- 27.9.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified;
- 27.9.2 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;
- 27.9.3 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 appointer shall be treated as an interest of the alternate Director.

- 27.10 Save as otherwise provided by this Instrument, a Director shall not vote at a meeting of the Directors or a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material or a duty which conflicts or may conflict with the interests of the ICAV. Unless otherwise resolved by the Directors, a Director shall not be counted in the quorum present at a meeting in relation to any such resolution on which he is not entitled to vote.
- 27.11 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 any proposal concerning any other company in which he is interested, directly or indirectly, and whether as an officer or Shareholder or otherwise howsoever, provided that he is not the holder of 5% or more of the issued Shares of any class of such company or of the voting rights available to members of such company, any such interest being deemed for the purpose of this Section to be a material interest in all circumstances.
- 27.12 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.
- 27.13 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.
- 27.14 The ICAV, by Ordinary Resolution, may suspend or relax the provisions of this Section to any extent or ratify any transaction not duly authorised by reason of a contravention of this Section.

## **28 Powers of Directors**

- 28.1 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 Act, by the AIFM Rules or hereby required to be exercised by the ICAV in general meeting, subject, nevertheless, to the provisions of the Act, to the AIFM 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 Section shall not be limited or restricted by any special authority or power given to the Directors by this or any other Section.
- 28.2 The Directors, on behalf of the ICAV may subject to the AIFM Rules, form one or more Subsidiaries. All of the shares, units or other participation interests (as applicable) of a Subsidiary shall be held by the Depositary or its nominee or otherwise in accordance with the requirements of the Central Bank for the ICAV with the intention that transactions (including, without limitation, futures and options transactions) should be carried out by the Subsidiary, with all assets being held by the Depositary or its nominee for the account of a

Subsidiary or otherwise as the Central Bank may permit. The investment and borrowing restrictions will take effect as if all the assets of, and all the liabilities of, any Subsidiary were held or owned directly by the ICAV. Any Subsidiary shall, as required by the Central Bank, be wholly-owned.

28.3 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.

28.4 Subject to the AIF Rulebook, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV as authorised by this Instrument. Subject to the provisions of the AIF Rulebook and with the authorisation of the Central Bank, the ICAV may invest in collective investment undertakings with which the ICAV is linked by common management and control or by substantial direct or indirect holding, provided that the said collective investment undertaking has investment policies consistent with the investment policies of the ICAV. No such investment may be made unless the manager of the relevant collective investment undertaking has agreed to waive any preliminary or initial charge which it might otherwise be entitled to charge for its own benefit in respect of such investment.

## 29 **Borrowing and Hedging Powers**

Subject to the limits and conditions set forth in the Prospectus and laid down by the Central Bank and subject to the provisions of Section 28 hereof, the Directors may exercise all the powers of the ICAV to borrow money, to mortgage or charge its undertaking, property, or any part thereof and to issue debentures, debenture stock and other securities whether outright or as a security for any debts and to use techniques and instruments for hedging and investment purposes.

## 30 **Proceedings of Directors**

30.1 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 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.

30.2 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.

30.3 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 or a majority or quorum of Directors cannot be attained, 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.

30.4 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.

- 30.5 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 minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.
- 30.6 A resolution in writing signed 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. 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 executes such resolution.
- 30.7 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.
- 30.8 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 Section 30.2 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.
- 30.9 The Directors may, whether by standing resolution or otherwise, delegate their powers relating to the issue and repurchase 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.
- 30.10 The Directors may delegate their powers relating to the management of the ICAV's assets to the AIFM or to any duly authorised Officer or other person, subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- 30.11 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.
- 30.12 The Directors shall as soon as may be cause minutes to be made of:
- 30.12.1 all appointments of officers made by the Directors;
- 30.12.2 the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
- 30.12.3 all resolutions and proceedings of all general meetings of the ICAV and of the Directors and of committees of Directors;
- and such minutes shall be entered in books kept for that purpose.

30.13 Any such minutes as are referred to in Section 30.12 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 their proceedings.

30.14 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. . At the discretion of the chairperson, such meeting shall be deemed to have been convened (a) in the place from which the conference telephone call or similar telecommunication is initiated provided or (b) in the location of the chairperson, provided always that the quorum must be constituted in accordance with Section 30.2.

### 31 **Secretary**

The Secretary shall be appointed by the Directors. The Secretary shall be appointed by the Directors for such term, at such remuneration and on such conditions as they may think fit; and any Secretary so appointed may be removed by them. 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 the same person acting both as Director and as, or in the place of, the Secretary. Any reference to a Secretary in this Section 31 may be deemed to include a reference to joint secretaries where joint secretaries are so appointed.

### 32 **Execution of Documents**

32.1 The ICAV shall not have a common seal.

32.2 Any document expressed to be executed by the ICAV and signed on behalf of the ICAV:

32.2.1 by two authorised signatories of the ICAV; or

32.2.2 by a Director in the presence of a witness who attests the signature;

shall have the same effect as if executed under the common seal of the ICAV.

32.3 The term "*authorised signatories*" as used in this Section 32 shall mean:

32.3.1 a Director;

32.3.2 the Secretary or any joint secretary of the ICAV.

### 33 **Dividends**

33.1 The Directors may from time to time as they think fit pay such dividends on any class of Shares of the ICAV as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus.



- 33.2 Unless otherwise provided for in the Prospectus, the aggregate amount available for distribution by way of dividend in any Accounting Period in respect of a class of Shares shall be a sum equal to the aggregate of the ICAV's Share capital, accumulated reserves, net realised and net unrealised capital gains and losses and the net income received by the ICAV (whether in the form of dividends, interest or otherwise) during the Accounting Period.
- 33.3 The Directors may, with the sanction of an Ordinary Resolution, distribute in kind among Shareholders by way of dividend or otherwise any of the assets of the ICAV (other than any assets which have a contingent liability).
- 33.4 Shares shall qualify for dividend in such manner as may be determined by the Directors or as may be set out in the Prospectus relating to such Shares.
- 33.5 Any declaration of a dividend by the Directors 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.
- 33.6 The ICAV may transmit any dividend or other amount payable in respect of any Share 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 and shall not be responsible for any loss arising in respect of such transmission.
- 33.7 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 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.
- 33.8 At the option of any Shareholder, the Directors may apply all dividends declared on a class of Shares held by such Shareholder in the issue of additional Shares in 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.
- 33.9 The Directors may provide that Shareholders will be entitled to elect to receive in lieu of any dividend (or part thereof) in respect of any Shares an issue of additional Shares in that class credited as fully paid. In any such case the following provisions shall apply:
- 33.9.1 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;
- 33.9.2 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;

33.9.3 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);

33.9.4 the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalization, 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 or the ICAV issues Fractional Shares; and

33.9.5 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.

33.10 Where the ICAV proposes to pay a distribution to a Shareholder, it shall be entitled to deduct from the distribution such amount that may be necessary to discharge the ICAV's liability to taxation in respect of such distribution and the ICAV shall arrange to discharge the amount of taxation due.

#### **34 Untraced Shareholders**

34.1 The ICAV shall be entitled to repurchase 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.

34.2 The ICAV shall account to the Shareholder or to the person entitled to such Share for the net proceeds of such repurchase 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.

#### **35 Accounts**

35.1 The Directors shall cause to be kept books of account as are necessary in relation to the conduct of its business or as are required by the Act and the AIFM Rules so as to enable the accounts of the ICAV to be prepared.

35.2 The books of account shall be kept at the registered office, or at such other place or places as the Directors shall think fit in accordance with the Act, and shall at all reasonable times be open to for inspection without charge by the Officers of the ICAV and by other persons entitled pursuant to the Act to inspect the accounting records of the ICAV. However, other than the aforesaid, no other person shall be entitled to inspect the books, accounts, documents or writings of the ICAV, except as authorised by the Directors or by the ICAV in general meeting.

- 35.3 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 Accounting Period of the ICAV and shall be audited by the Auditors and laid before the ICAV at its annual general meeting in each year (if any), and such balance sheet shall contain a general summary of the assets and liabilities of the ICAV and all information required to be included by the Act. The balance sheet shall be accompanied by a report of the Directors as to the state and condition of the ICAV, the amount (if any) which they recommend should be paid by way of dividend, the amount (if any) which they have carried or propose to carry to reserve, and shall include such information as is required pursuant to the Act, 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. The Auditors' report shall be read at the annual general meeting (if any).
- 35.4 Once at least in every year the Directors shall cause to be prepared an Annual Report relating to the management of the ICAV during the relevant Accounting Period. 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 Section 35.3 and shall be in a form approved by the Central Bank and shall contain such information as required by the Act and the AIFM Regulations and as specified by the Central Bank. There shall be attached to such Annual Report such additional information and reports as the Central Bank may specify.
- 35.5 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 made available by the ICAV to every person entitled under the Act and the AIFM Rules to receive them and if any of the Shares are quoted on any stock exchange, the required number of copies of these documents shall be forwarded at the same time to such stock exchange.
- 35.6 In accordance with Irish law and regulations, the Directors may elect to prepare the Annual Report and accounts in accordance with generally accepted accounting practice in the State or in accordance with such international accounting standards or such alternative body of accounting standards as may be permitted under the Act and the AIFM Regulations from time to time.
- 35.7 The Auditors' certificate appended to the Annual Report and statement referred to herein 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 and of the Administrator in relation thereto, that the information given in the Annual Report relating to the Accounting Period concerned is consistent with the accounts 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.
- 35.8 If it appears to the Directors that any Annual Report of the ICAV did not comply with the requirements of the Act or the AIFM Rules, the Directors may prepare a revised Annual Report.

## 36 **Audit**

- 36.1 The appointment, resignation and removal of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the Act.
- 36.2 Subject to Section 36.5, the ICAV shall at an annual general meeting appoint an Auditor or Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting, in accordance with the provisions of the Act.
- 36.3 A person, other than a retiring Auditor, shall not be capable of being appointed Auditor at an annual general meeting unless notice of an intention to nominate that person to the office of Auditor has been given by a Shareholder to the ICAV not less than twenty eight clear days before the annual general meeting and the Directors shall send a copy of any such notice to the retiring Auditor and shall give notice thereof to the Shareholders in accordance with the Act.
- 36.4 The first Auditors shall be appointed by the Directors at any time before the first annual general meeting, and they shall hold office until the conclusion of the first annual general meeting unless previously removed by a resolution of the ICAV in general meeting, in which case the Shareholders at such meeting may appoint Auditors. Where no appointment is made under this Section 36.4, the first Auditors may be appointed by the Shareholders in general meeting.
- 36.5 Where the Directors have dispensed with the requirement to hold an annual general meeting in accordance with Section 22.3, the Directors shall appoint the Auditors. Where, in any case, no Auditors are appointed as required under this Section 36, the Central Bank may appoint a person to fill the vacancy.
- 36.6 The remuneration of the Auditors who are appointed by the ICAV in general meeting shall be fixed by the ICAV in general meeting or in such manner as the ICAV in general meeting may determine. The remuneration of the Auditors who are appointed by the Directors or the Central Bank shall be fixed by the Directors or the Central Bank (and will be payable by the ICAV where fixed by the Central Bank).
- 36.7 The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- 36.8 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.
- 36.9 The Auditors shall have a right of access at all times to the accounting records of the ICAV. The Auditors shall be entitled to require from the Officers such information and explanations as they think necessary for the performance of their duties as Auditors.
- 36.10 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 be heard at any general meeting on any part of the business of the meeting which is of concern to them as Auditors and in this regard, make any statement or explanations they may desire with respect to the accounts and notice of every such meeting, and other

communications relating thereto, shall be given to the Auditors in the manner prescribed for the Shareholders.

36.11 The Auditors shall be eligible for re-election.

## **37 Notices**

37.1 Any notice or other document required to be served upon or sent to a Shareholder shall be deemed to have been duly given if sent by post or left at his address as appearing on the Register, or sent by fax or by electronic mail to an e-mail address or (save in the case of a notice of a general meeting of the ICAV) if either the full text of the notice or documents is published in a national daily newspaper in Ireland or such other publication as the ICAV may from time to time decide circulating in any country where the Shares are marketed, or an advertisement is so published stating where copies of such notices or documents may be obtained. In the case of joint holders of a Share, all notices shall be given to that one of the joint holders whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders. Any notice or other document, served by post, shall be deemed to have been served 24 hours after the time that the letter containing the same is posted and in proving such service, it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly posted. Any notice or other document, served by delivery, shall be deemed to have been served at the time of delivery and in proving such service, it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly delivered.

37.2 Any notice or document sent by post to or left at the registered address of a Shareholder or sent by fax or by electronic mail to an e-mail address, 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.

37.3 Any certificate or notice or other document which is sent by post to or left at the registered address of the Shareholder named therein or sent by fax or electronic mail to an e-mail address or dispatched by the ICAV, the Depositary, the Administrator or the AIFM, in accordance with his instructions shall be so sent left or dispatched at the risk of such Shareholder.

## **38 Winding Up**

38.1 If the ICAV shall be wound up or dissolved, the liquidator shall apply the assets of the ICAV in satisfaction of the relevant creditors' claims in such manner and order as the liquidator thinks fit subject to section 154 of the Act.

38.2 The assets of the ICAV available for distribution (after satisfaction of the relevant creditors' claims) amongst the relevant Shareholders shall be distributed pro rata to the holders of the Shares of each class in the ICAV and shall be allocated pro rata to the number of Shares in that class held by them.

38.3 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 relevant Shareholders pro-rata to the value of their

Shareholdings in the ICAV in specie the whole or any part of the assets of the ICAV, and 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 Section 20. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of the relevant 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. If a Shareholder so requests, the ICAV shall sell the assets to be distributed to that Shareholder and distribute the cash proceeds to the Shareholder. The relevant Shareholders will bear any risks of the distributed securities and may be required to pay a brokerage commission or other costs in order to dispose of such securities.

## 39 Indemnity

- 39.1 The ICAV shall indemnify, out of the property of the ICAV, its Directors, Officers, employees and any person who serves at the request of the ICAV as a director, officer, employee of another company, partnership, joint venture, trust or other enterprise (“**Indemnitees**”) from and against all claims, actions, proceedings, losses, damages, liabilities, costs and expenses which an Indemnitee may incur or sustain including, without limitation, actions, costs, charges, losses, damages and expenses (including legal fees and expenses) directly or indirectly suffered or incurred by an Indemnitee arising out of or in connection with the performance of its duties and/or the exercise of its powers hereunder (including, without limitation, the delegation of any or all of its duties and powers to the AIFM or Investment Manager) in the absence of negligence, wilful default, fraud, bad faith or recklessness by the Indemnitee in relation thereto. For the avoidance of doubt, and notwithstanding any other provision of this Instrument, the right of indemnification contained in this Section 39.1 shall not entitle any Indemnitee to make any claim for loss of future earnings arising out of a termination of the ICAV under any provision of this Instrument.
- 39.2 Subject to the AIFM rules and applicable law, the Depositary, the AIFM, the Investment Manager, Administrator and Distributor 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 their respective agreements with the ICAV.
- 39.3 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.
- 39.4 None of the ICAV, the AIFM, the Investment Manager, the Administrator or the Depositary shall incur any 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 Section 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 AIFM Rules 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.

39.5 For the avoidance of doubt, no Director shall be liable for the acts or omissions of any other Director.

## 40 **Destruction of Documents**

40.1 The ICAV may destroy:

40.1.1 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;

40.1.2 any instrument of transfer of Shares which has been registered at any time after the expiry of six years from the date of registration there of; and

40.1.3 any other document on the basis of which an entry in the Register is made at any time after the expiry of ten years from the date an entry in the Register 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:

40.1.4 the foregoing provisions of this Section 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;

40.1.5 nothing contained in this Section 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

40.1.6 references in this Section to the destruction of any document includes references to its disposal in any manner.

## 41 **Severability**

If any term, provision, covenant or restriction of this Instrument 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 shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

## **42 Modification of this Instrument**

- 42.1 No modification shall be made to this Instrument without the approval of the Central Bank. Any such modification may only be made in accordance with the requirements of the Act.
- 42.2 The ICAV, subject to the prior approval of the Central Bank, shall be entitled to modify, alter or add to the provisions of this Instrument, without the prior approval of the Shareholders where the Depositary certifies that the modification, alteration or addition does not materially prejudice the interests of the Shareholders and is not one which the Central Bank has specified as one requiring approval of the Shareholders.
- 42.3 The ICAV, subject to the prior approval of the Central Bank, shall be entitled to modify, alter or add to the provisions of this Instrument, with the sanction of an ordinary resolution of a meeting of Shareholders duly convened and held in accordance with the provisions contained in this Instrument, provided that no such modification, alteration or addition shall be made which shall reduce the interest in the ICAV of any Shareholder (without similarly reducing the interests of all Shareholders in the ICAV) or reduce the percentage of Shares required to consent to any modification, alteration or addition without the consent of all Shareholders.
- 42.4 Without prejudice to the foregoing, the ICAV shall be entitled (and without the sanction of an ordinary resolution as aforesaid) to modify, alter or add to the provisions of this Instrument in such manner and to such extent as they may consider necessary or expedient having regard to the provisions of any fiscal enactments for the time being in force affecting the ICAV and any arrangements approved by the Revenue Commissioners of Ireland in relation to the carrying into effect hereof or to conform to any legislation, provided that no such modification, alteration or addition shall impose upon any Shareholder any obligation to make any further payment in respect of his Shares or to accept any liability in respect thereof.



## SUBSCRIBER SHAREHOLDERS

We, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into a variable capital investment corporate body in pursuance of this Instrument and we agree to take the number of Shares in the capital of the ICAV set opposite our respective names.

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<b>Names, Addresses and Description of subscribers Subscriber (written in full)</b>	<b>Number of Shares taken by each</b>
Matsack Trust Limited 70 Sir John Rogerson's Quay Dublin 2	One Share
Matsack Nominees Limited 70 Sir John Rogerson's Quay Dublin 2	One Share
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Total No. of Shares taken:	Two Shares

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Dated this    October 2019

Witness to the above Signatures:

## Schedule 1

### Qualified Holders

- (a) The ICAV may, subject to such notice (if any) as the Directors may deem appropriate and specify in the Prospectus, redeem all of the Shares of any Class held by any Shareholder at the relevant Net Asset Value per Unit if such Shareholder's holding falls below the minimum holding requirements set out in the Prospectus or such other amount as the ICAV may determine from time to time in respect of that Class and notify to Shareholders.
- (b) Shareholders are required to notify the ICAV immediately in the event that:
- (i) they become U.S. Persons;
  - (ii) they become Irish Residents;
  - (iii) they cease to be Exempt Investors;
  - (iv) the Declaration made by or on their behalf is no longer valid;
  - (v) they hold Units for the account or benefit of:
    - (1) U.S. Persons;
    - (2) Irish Residents; or
    - (3) Irish Residents who cease to be Exempt Investors and in respect of which the Declaration made on their behalf is no longer valid; or
  - (vi) they otherwise hold Shares in breach of any law or regulation or otherwise in circumstances having or which may have adverse regulatory, tax or fiscal consequences for the ICAV or the Shareholders.
- (c) Where the ICAV becomes aware that a Shareholder is:
- (i) a U.S. Person or is holding Units for the account of a U.S. Person; or
  - (ii) holding Units in breach of any law or regulation or otherwise in circumstances having or which may have adverse regulatory, tax or fiscal consequences for the ICAV or the Shareholders,
- the Directors may
- (1) direct the relevant Shareholder to dispose of those Shares to a person who is entitled to own the Shares within such time period as the Directors stipulate; or
  - (2) redeem the Shares at the Net Asset Value per Unit of the relevant Shares as at the next Business Day after the date of notification to the Shareholder or after the end of the period specified for transfer or disposal pursuant to paragraph (1) above.

(d) Any Shareholder who becomes aware that he is holding Shares in contravention of any of the above provisions of this Schedule 1 and who fails to transfer, or deliver for repurchase, his Shares if so directed by the Directors pursuant to the above provisions or who fails to make the appropriate notification to the ICAV in accordance with paragraph (b) above shall indemnify and hold harmless each of the ICAV, the AIFM, the Investment Manager, the Depositary, the Administrator and the other Shareholders (each an “**Indemnified Party**”) from any claims, demands, proceedings, liabilities, damages, losses, costs and expenses directly or indirectly suffered or incurred by such Indemnified Party arising out of or in connection with the failure of such person to comply with his obligations pursuant to any of the above provisions.

(e) In this Schedule 1:

“**Declaration**” means a valid declaration in a form prescribed by the Irish Revenue Commissioners for the purposes of Section 739D TCA 1997 (as may be amended from time to time);

“**Exempt Investor**” means any of the following Irish Residents: (i) the Administrator, for so long as the Administrator is a qualified management company as referred to in Section 739B; (ii) a specified collective investment undertaking as referred to in Section 739B; (iii) a company carrying on life business within the meaning of Section 706 TCA 1997; (iv) a pension scheme as referred to in Section 739B; (v) any other investment undertaking as referred to in Section 739B; (vi) a special investment scheme as referred to in Section 739B; (vii) a unit trust of a type referred to in Section 739D(6)(e) TCA 1997; (viii) a person who is entitled to exemption from income tax by virtue of Section 207(1)(b) TCA 1997; (ix) a person who is entitled to exemption from income tax and capital gains tax by virtue of Section 784A(2) TCA 1997 in circumstances where the Shares held are assets of an approved retirement fund or an approved minimum retirement fund; (x) a specified company as referred to in Section 739B; (xi) a person entitled to exemption from income tax and capital gains tax by virtue of Section 787I; (xii) a credit union with the meaning of Section 739B; (xiii) the Courts Service within the meaning of Section 739B; (xiv) a company that satisfied the conditions of Section 739D(6)(k) TCA 1997; (xv) the National Pension Reserves Fund Commission; (xvi) the National Asset Management Agency; or (xvii) any other person resident in Ireland who is permitted to own Shares under Irish taxation legislation or by practice or concession of the Revenue Commissioners without requiring the ICAV to deduct appropriate tax in respect of any payment to a Shareholder or the transfer by a Shareholder of any Shares and in respect of whom the ICAV is in possession of a Declaration;

“**Irish Resident**” means any company resident, or other person resident or ordinarily resident, in the Republic of Ireland for the purposes of Irish tax;

“**U.S. Person**” means a U.S. person as defined in Regulation S of the U.S. Securities Act of 1933, as amended.

## Schedule 2

### Valuation of Assets

- (a) The Net Asset Value of the ICAV shall be calculated in accordance with the provisions of this Schedule. All approvals given or decisions made by the Depositary pursuant to this Schedule shall be given or made, as the case may be, following consultation with the AIFM.
- (b) In the case of royalty interests where the underlying product is approved by the U.S. Food and Drug Administration (the “**FDA**”) or an equivalent European body, the value of the royalty interests shall be determined by the AIFM based on a consensus of Wall Street analyst estimates for the product sales of the marketers of the relevant royalty interests. In the case of royalty interests which are not approved by the FDA or an equivalent European body, the value of the royalty interests shall be determined based on a form of Probability of Technical and Regulatory Success (“**PTRS**”). The AIFM will apply a 50% PTRS to (a) the cash receipts from those products that are unapproved as at relevant Valuation Date, and (b) the incremental expected cash receipts from extending the duration of certain royalty interests. Such 50% PTRS methodology will value the items in (a) and (b) (or such other items or assets as the AIFM may deem appropriate to be subject to the PTRS) assuming the receipt of 50% of the resulting incremental projected cash receipts that would result from the approval of such products (or extension of duration). The above valuations shall be completed by the AIFM, which shall be approved for the purpose by the Depositary. The aggregate value of all such royalty interests may be discounted relative to factors such as years to expiration of patent and competition, among other relevant factors.
- (c) each Investment asset which is quoted, listed or traded on or under the rules of any Recognised Market shall be valued by reference to the price appearing to the AIFM to be the last traded price, or (if bid and offer quotations are made) the latest available middle market quotation, on the relevant Recognised Market at the relevant Valuation Point. The value of any Investments listed, quoted or traded on a Recognised Market but acquired or traded at a premium or discount outside of or off the Recognised Market may be valued taking into account the level of premium or discount as of the date of valuation of the instrument. If the asset is normally quoted, listed or traded on or under the rules of more than one Recognised Market, the relevant Recognised Market shall be that which the Directors determine provides the fairest criterion of value for the asset. If prices for an asset quoted, listed or traded on the relevant Recognised Market are not available as at the Valuation Point, or are unrepresentative in the opinion of the AIFM such asset shall be valued at such value as shall be certified with care and good faith as the probable realisation value of the asset by the AIFM.
- (d) The value of any asset which is not normally quoted, listed or traded on or under the rules of a Recognised Market, other than Investments which constitute a contractual royalty interest and which are subject to paragraph (b) above, shall be valued with care and in good faith at its probable realisation value as determined by the AIFM.
- (e) Fixed income securities may be valued by reference to the valuation of the securities which are considered comparable in rating, yield, due date and other characteristics where reliable market quotations are not available, using a methodology which will be compiled by the AIFM.

- (f) Units or shares in collective investment schemes shall be valued on the basis of the latest available net asset value per unit as published by the collective investment scheme.
- (g) Cash deposits and similar investments shall be valued at their face value together with accrued interest unless in the opinion of the Directors and / or AIFM, any adjustment should be made to reflect the fair value thereof.
- (h) Derivative instruments including but not limited to exchange traded swaps, interest rate futures contracts and other financial futures and options contracts which are traded on a Recognised Market shall be valued by reference to the price appearing to the AIFM to be the settlement price as of the relevant Valuation Point as determined by the relevant Recognised Market provided that where it is not the practice of the relevant Recognised Market to quote a settlement price, or if a settlement price is not available for any reason, such instruments shall be valued at their probable realisation value estimated with care and in good faith by the AIFM.
- (i) Over-the-counter (“**OTC**”) derivatives will be valued either using the counterparty’s valuation or by any other means approved by the AIFM. OTC derivatives shall be valued at least daily. If using the counterparty’s valuation, such valuation must be approved or verified on a weekly basis by a party independent of the counterparty (which may include the AIFM or a party related to the OTC counterparty provided that it is an independent unit within the same group and which does not rely on the same pricing models employed by the counterparty) and approved by the AIFM. If using an alternative valuation, the AIFM will follow international best practice and adhere to the principles on valuation of OTC instruments established by bodies such as IOSCO and AIMA. All alternative valuations will be reconciled with the counterparty’s valuation on at least a monthly basis. Any significant differences to the counterparty valuation will be promptly investigated and explained.
- (j) Forward foreign exchange and interest rate swap contracts may be valued in accordance with the provisions of paragraph (i) above or, alternatively, by reference to freely available market quotations.
- (k) Notwithstanding the provisions, in determining the value of any asset the AIFM may adjust the valuation of any particular asset or permit a method of valuation other than that contained in paragraph (b) above to be used if it considers that such valuation better reflects the true value of the asset. The AIFM may make adjustments to the sales forecasts of Wall Street analysts or rely on its own projections of product sales including under circumstances where a product does not receive robust analyst coverage. The AIFM may make assumptions as to the duration during which an asset will continue to generate royalties, including in cases where the ICAV owns a royalty of indefinite duration for a product. Any material change in the valuation methodology may only be used with the prior approval of the Central Bank.
- (l) For the avoidance of doubt, the AIFM may appoint an external valuer in accordance with the AIFM Regulations.

The discount rates applied by the AIFM pursuant to item (b) above have regard to such factors as risk levels, product competition, diversification of the overall royalty portfolio of the ICAV, patent terms and a number of other factors. The AIFM believes that prudent portfolio management requires a periodic assessment of the valuation metrics used to derive net asset value, and will continue to assess these metrics on an on-going basis. These future assessments may result in the discount rate being lowered, increased or remaining the same. Any decision regarding the discount rate will involve consultation

between the Administrator and the AIFM. Investors should be aware of the possibility that net asset value may change in the future based on the discount rate that is applied, among other factors.

**Irish Collective Asset-management Vehicles Act  
2015**

**INSTRUMENT OF INCORPORATION**

**OF**

**ROYALTY PHARMA INVESTMENTS 2019 ICAV  
(a closed-ended ICAV)**

**A VARIABLE CAPITAL COLLECTIVE  
INVESTMENT CORPORATE BODY**