

IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLES ACT 2015 (AS AMENDED)

AND

**THE EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN
TRANSFERABLE SECURITIES) REGULATIONS, 2011 (AS AMENDED)**

AN IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE WITH VARIABLE CAPITAL

AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB FUNDS

INSTRUMENT OF INCORPORATION

OF

ACTIVE & PASSIVE ETFs ICAV

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1. **Definitions**

In this Instrument of Incorporation, the following expressions shall have the following meanings where the context so permits:

"Affiliate" means:

- (A) any holding company or subsidiary of a Shareholder and any subsidiary of any such holding company as the context so requires; or
- (B) any other person Controlled by, Controlling or under common Control with that person; or
- (C) any other person (excluding an independent financial institution) that owns, directly or indirectly, nominally or beneficially, 50% or more of any class or series of that person's Share capital (or equivalent capital stock); or
- (D) any investment fund vehicle Controlled or managed by that person;

and shall include any state governmental, statutory, regulatory, public or other body which Controls it or is Controlled by it from time to time.

"AML/CTF" means anti-money laundering and counter-terrorist financing.

"Anti-Dilution Levy" means a levy which may be (i) added to subscription amounts payable by an investor or (ii) deducted from redemption amounts receivable by an investor (as determined at the discretion of the Directors).

"Assets" means all of the Assets including the Investments for the time being of this ICAV and any Fund acquired in accordance with the provisions of clause 21 of Schedule 1.

"Auditors" means the Auditors for the time being of the ICAV.

"Business Day" means in relation to any Fund such day or days as is or are specified in the Prospectus or Supplement for the relevant Fund.

"Central Bank" means the Central Bank of Ireland or such other or successor authority with responsibility for registering, authorising and supervising the ICAV.

"Clear Days" means in relation to the period of calendar days of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

"Control" means the power of a person (or persons acting in concert) to secure that the affairs of another are conducted directly or indirectly in accordance with the wishes of that person (or persons acting in concert) whether by means of:

- (A) in the case of a company, being the beneficial owner of more than 50% of the issued Share capital of or of the voting rights in that company, or having the right to appoint or remove a majority of the Directors or otherwise Control the votes at board meetings of that company by virtue of any powers conferred by the articles of association, Shareholders' agreement or any other document regulating the affairs of that company;

(B) in the case of a partnership, being the beneficial owner of more than 50% of the capital of that partnership or having the right to Control the composition of or the votes to the majority of the management of that partnership by virtue of any powers conferred by the partnership agreement or any other document regulating the affairs of that partnership; or, in the case of an individual, being a connected person to that individual.

“Controlled” means persons acting in concert, in relation to a person, are persons which actively co-operate, pursuant to an agreement or understanding (whether formal or informal) with a view to obtaining or consolidating Control of that person.

“Currency Share Class” means a Share Class denominated in a currency other than the base currency of the relevant Fund.

“Dealing Day” means such Business Day or Business Days as disclosed in the Prospectus as the Directors may, from time to time, with the approval of the Depositary, determine in relation to any Fund for the subscription, redemption or switching of Shares provided that there shall be at least two (2) Dealing Days per month.

“Dealing Deadline” means such day and time as may be specified from time to time by the Directors in relation to any Share Class and set out in the Prospectus.

“Depositary” means the person appointed and for the time being acting as Depositary (which term shall include any Depositary or trustee) of all the Assets pursuant to clauses 22 to 24 of Schedule 1.

“Depositary Agreement” means any agreement for the time being subsisting between the ICAV and the Depositary and relating to the appointment and duties of the Depositary.

“Directors” means the Directors for the time being of the ICAV and Director means any one of those.

“Dilution Adjustment” means a provision for market spreads (the difference between the prices at which Assets are valued and/or bought or sold), Duties and Charges and other dealing costs relating to the acquisition or disposal of Assets and to preserve the value of the underlying Assets of any Fund.

“Duties and Charges” means all stamp and other duties, taxes, governmental charges, brokerage, bank charges, transfer fees, registration fees, any transaction and safekeeping fees payable to the Depositary or its delegates or agents and other Duties and Charges whether in connection with the original acquisition or increase of the Assets or the creation, issue, sale of Shares or the sale or purchase of Investments by the ICAV or in respect of certificates or otherwise which may be described in the Prospectus or any Supplement and which may have become or may be payable in respect of or prior to or upon the occasion of the transaction or dealing in respect of which such Duties and Charges are payable but shall not include any commission, taxes, charges or costs which may have been taken into account in ascertaining the Net Asset Value.

“Encumbrance” means any mortgage, pledge, lien, charge, assignment, hypothecation or other agreement or arrangement which has the same or a similar effect to the granting of security.

“Electronic Communication” has the same meaning as under the Electronic Commerce Act 2000, and "electronic" and "electronically" shall be construed accordingly.

“Equalisation Account” means an Equalisation Account which may in the discretion of the Directors be maintained in respect of any Fund in accordance with clause 26 of Schedule 1.

“Equalisation Payment” means an amount paid in accordance with clause 26 of Schedule 1 (subject to any determination of the Directors to the contrary) calculated at such rate per Share of Shares Class as shall be determined by the Directors by reference to their estimate from time to time of the next dividend to be declared in respect of the relevant Share Class Fund(s) the portfolio(s) maintained in accordance with clause 26 of Schedule 1 which shall be kept separate in respect of each Share Class or the relevant Share Classes (where more than one Share Class has been created to participate in a Fund) to which all Assets and liabilities, income and expenditure attributable or allocated to each such Fund shall be applied and charged.

“EU Member State” means any member state of the European Union.

“Euronext Dublin” means the Irish Stock Exchange and any successor thereof.

“FATCA” means Foreign Account Tax Compliance Act Subtitle A of Title V of the Hiring Incentives to Restore Employment Act which enacts Chapter 4 of, and makes other modifications to, the Internal Revenue Code in the US (as amended, consolidated or supplemented from time to time), including any regulations issued pursuant thereto.

“Foreign Person” has the meaning given to that term in the Prospectus.

“Funds” mean the portfolio(s) maintained in accordance with clause 9 of Schedule 1 which shall be kept separate in respect of each Share Class or the relevant Share Classes (where more than one (1) Share Class has been created to participate in a Fund) to which all Assets and liabilities, income and expenditure attributable or allocated to each such Fund shall be applied and charged. Additional Funds may be established with the prior approval of the Central Bank.

“Hedged Currency Share Class” means a Currency Share Class in respect of which the relevant Fund will conduct currency hedging transactions the benefits and costs of which will accrue solely to Shareholder of that Share Class.

“ICAV” means the Irish collective asset-management vehicle whose name appears in the heading to this Instrument of Incorporation.

“ICAV Act” means the Irish Collective Asset-management Vehicles Act 2015 (No 2 of 2015) as may be further amended, supplemented, replaced or re-enacted from time to time and includes any regulations made thereunder by ministerial order and any conditions that may be imposed from time to time thereunder by the Central Bank whether by notice or otherwise affecting the ICAV.

“Initial Offer Period” means any period determined by the Directors during which any Share Classes in the relevant Fund may be offered for subscription at a fixed price.

“Instrument of Incorporation” means the Instrument of Incorporation of this ICAV and the Schedules appended thereto as amended from time to time and for the time being in force.

“Investment” means an Investment acquired by the ICAV pursuant to clause 21 of Schedule 1.

“Investment Manager” means one or more persons, firms or corporations appointed to provide Investment management and/or advisory services directly or indirectly to the ICAV and its Funds, and which may include sub-investment Managers (as may be further detailed in the Prospectus).

“Irish Taxable Person” has the meaning given to it in the Prospectus.

“Manager” means the entity appointed as Manager of the ICAV pursuant to the UCITS Regulations and authorised to act as a UCITS management company for that purpose.

“Minimum Additional Investment Amount” means such minimum cash amount or minimum number of Shares as the case may be (if any) as the Directors may from time to time require to be invested in any Fund by each Shareholder (after investing an initial amount).

“Minimum Fund Size” means such amount (if any) as the Directors may from time to time prescribe as the Minimum Fund Size for each Fund.

“Minimum Holding” means such number or value of Shares of any Share Class (if any) as the Directors may, from time to time, prescribe, as the minimum permitted holding of Shares of that Share Class.

“Minimum Initial Investment Amount” means such amount as the Directors may from time to time prescribe as the minimum initial subscription for Shares of any Share Class.

“Minimum Redemption Amount” means such minimum number or minimum value of Shares of any Share Class as the case may be (if any) which may be redeemed at any time by a Shareholder.

“Net Asset Value” means the Net Asset Value of the ICAV or of any Fund or any Share Class (or any series thereof) being the value of the Assets after deduction of liabilities of the ICAV or of any Fund or attributable to any Share Class or Share, as the case may be, which shall be calculated as at a Valuation Point in accordance with the provisions of Schedule 2.

“Office” means the registered Office for the time being of the ICAV.

“ordinary resolution” means a resolution passed by a simple majority of the votes cast by the members of the ICAV as, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV.

“par value” means the nominal value assigned to a security (which term includes loans) by the issuer of such security.

“Permitted Investor” means any person not disqualified from holding Shares by virtue of clause 20 of Schedule 1.

“Prospectus” means the Prospectus issued from time to time by this ICAV as same may be amended, supplemented, consolidated, substituted or otherwise modified from time to time.

“Redemption Charge” means the for payable by an investor to the Fund on the redemption of Shares in a Fund as set out in the relevant Supplement.

“Redemption Price” means the Redemption Price of Shares calculated and determined in accordance with clauses 12 to 16 of Schedule 1.

“Register” means the Register of Shareholders to be kept as required by the ICAV Act.

“Regulated Market” means in relation to any Investment, any stock exchange, over the counter market or other regulated securities market which meets with the regulatory criteria of the Central Bank and which is listed in the Prospectus on which an Investment is listed and/or traded.

“Related Person” means, with respect to any individual person:

- (A) any direct lineal ancestor, direct lineal descendant (by birth or adoption) or sibling of such person; or
- (B) the spouse or same-sex partner of such person; or
- (C) a trust or custodial account solely for the benefit of such person and/or such person's direct lineal ancestors, direct lineal descendant (by birth or adoption), sibling and/or spouse or same-sex partner; or
- (D) any other legal entity owned beneficially solely by and for the benefit of such person, such person's direct lineal descendant (by birth or adoption), sibling and/or spouse or same-sex partner.

“Schedule” or “Schedules” means the Schedule or Schedules which is/are attached to and form(s) part of the Instrument of Incorporation.

“Seal” means the common Seal of the ICAV or (where relevant) the official securities Seal kept by the ICAV pursuant to the ICAV Act.

“Secretary” means any person appointed to perform the duties of the Secretary of the ICAV.

“Settlement Date” means the latest date(s) as may be determined by the Directors from time to time by which payment of the Subscription Price or the Redemption Price of Shares of any Share Class must be received or made. In the case of the Redemptions, the latest date will normally be three (3) Business Days after the relevant Dealing Day or as further stipulated in the Supplement for the relevant Fund.

“Share” or “Shares” means participating Shares in the ICAV representing interests in a Fund and where the context so permits or requires, any Share Class or series in a Share Class of participating Shares representing interests in a Fund.

“Share Class” means any class of Shares in a Fund issued from time to time by the ICAV.

“Shareholder” means in relation to any Share or Subscriber Share, as the case may be, the member whose name is entered in the Register as the holder of such Share and in the case of a Share warrant the Shareholder of such warrant.

“special resolution” means a resolution passed by not less than 75% of the votes cast by the Shareholders of the ICAV as, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV.

“Specific Investment” means:

- (A) any Investment issued or guaranteed by, the government or local authorities of an EU Member State, non-EU Member States or public international bodies of which one or more EU Member States are members; and
- (B) any Investment issued anywhere in the world by any of the following:
 - (1) OECD (Organisation for Economic Co-Operation and Development) Member States
 - (2) Government of the People's Republic of China
 - (3) Government of Brazil (provided the issues are of Investment grade)
 - (4) Government of India (provided the issues are of Investment grade)
 - (5) Government of Singapore
 - (6) European Investment Bank
 - (7) European Bank for Reconstruction and Development
 - (8) International Finance Corporation
 - (9) International Monetary Fund
 - (10) Euratom
 - (11) The Asian Development Bank
 - (12) Council of Europe
 - (13) Eurofima
 - (14) African Development Bank
 - (15) The World Bank
 - (16) The International Bank for Reconstruction & Development
 - (17) The Inter-American Development Bank
 - (18) European Union
 - (19) European Central Bank
 - (20) Federal National Mortgage Association (Fannie Mae)
 - (21) Federal Home Loan Mortgage Corporation (Freddie Mac)
 - (22) Government National Mortgage Association (Ginnie Mae)
 - (23) Student Loan Regulated Marketing Association (Sallie Mae)
 - (24) Federal Home Loan Bank

- (25) Federal Farm Credit Bank
- (26) Tennessee Valley Authority
- (27) Straight-A Funding LLC

Provided further that the relevant Fund holds securities from at least six (6) different issues and that securities from any one issue may not account for more than 30% of the net assets.

“State” or “Ireland” means the Republic of Ireland.

“Subscriber Share” means a non-participating Share in the capital of the ICAV issued in accordance with this Instrument of Incorporation and with the rights provided for under this Instrument of Incorporation.

“Subscription Charge” means the for payable by and investor to the Fund on the occasion of subscription for Shares in a Fund and as set out in the relevant Supplement.

“Subscription Price” means the issue price of Shares calculated and determined by the Directors in accordance with clause 2 of Schedule 1.

“Supplement” means any Supplement to the Prospectus issued on behalf of the ICAV in relation to a Fund from time to time.

“TCA” means the Taxes Consolidation Act, 1997, as amended.

“UCITS Regulations” means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, (Statutory Instrument No. 352 of 2011) as amended by the European Union (Undertakings for Collective Investment in Transferable Securities) Regulations 2016 (Statutory Instrument No. 143 of 2016), as amended or supplemented from time to time, and every regulation or other provision of law modifying or extending them and including the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (undertakings for Collective Investment in Transferable Securities) Regulations 2019 (as may be amended, consolidated or substituted from time to time).

“Unhedged Currency Share Class” means a Share Class where, typically, Shares may be subscribed for and dividends calculated and paid and redemption proceeds paid in a currency other than the base currency of the relevant Fund on the basis of a currency conversion at the prevailing spot currency exchange rate of the relevant base currency for the currency of the relevant Share Class but in respect of which no hedging will be made other than at the Fund level.

“US” means the United States of America (including each of the states, the District of Columbia and the Commonwealth of Puerto Rico) its territories, possessions and all other areas subject to its jurisdiction.

“US Person” has the meaning given in Regulation S under the US Securities Act of 1933, as amended.

“Valuation Point” means such point in time, in such place or places as the Directors may, from time to time determine, by reference to which the Net Asset Value is calculated as is specified in the relevant Supplement or such other time after the Dealing Deadline as the Directors may

from time to time determine subject to the requirements (if any) of the Central Bank provided that there shall be at least two (2) valuation points per month.

2. **Interpretation**

- 2.1 Expressions in this Instrument of Incorporation referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and any other modes of representing or reproducing words in a visible form, to include electronic means. Expressions in this Instrument of Incorporation referring to execution of any document shall include any mode of execution whether under Seal or under hand.
- 2.2 Unless specifically defined herein or unless the context otherwise requires, words or expressions contained in this Instrument of Incorporation shall bear the same meaning as in the ICAV Act but excluding any statutory modification thereof not in force when this Instrument of Incorporation becomes binding on the ICAV.
- 2.3 The table of contents, headings and captions included in this Instrument of Incorporation are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of this Instrument of Incorporation.
- 2.4 References in this Instrument of Incorporation to any enactment or any section or any provision of such means the enactment, section or provision as may be amended or replaced and may, from time to time and for the time being, be in force.
- 2.5 In this Instrument of Incorporation, the masculine gender shall include the feminine and neuter, and vice versa, and the singular number shall include the plural, and vice versa, and words importing persons shall include firms or companies. The words includes and including mean includes and including without limiting the generality of the preceding words.
- 2.6 References in this Instrument of Incorporation to Euro or € are to the currency, for the time being, of the European Union and references to US\$ shall mean the currency, for the time being, of the US. References to these currencies include any successor currency of the European Union or the US respectively.
- 2.7 The provisions of this Instrument of Incorporation are binding on the ICAV and on the Shareholders as if they had been a party to this Instrument of Incorporation.

3. **Constitution**

- 3.1 The name of this ICAV is Active & Passive ETFs ICAV.
- 3.2 Any change in name of the ICAV shall be made in accordance with section 30 of the ICAV Act.
- 3.3 For the purposes of clause 116, a change in name of the ICAV shall not constitute an alteration to the Instrument of Incorporation.
- 3.4 This ICAV is an Irish collective asset-management vehicle being a body corporate, established pursuant to the ICAV Act, which is constituted as an umbrella fund with segregated liability between sub-funds and with variable capital.

3.5 The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares respectively held by them. This is without prejudice to any other liability to which a Shareholder may be subject as provided by or under the ICAV Act.

4. **Object and powers**

4.1 The sole object of the ICAV is the collective Investment in either or both transferable securities and other liquid financial assets referred to in Regulation 68 of the UCITS Regulations of capital raised from the public and which operates on the principle of risk spreading.

4.2 The powers of this ICAV include all powers necessary or beneficial to attain the said object and include but are not limited to:

- (A) to carry on business as an Irish collective asset-management vehicle authorised pursuant to the ICAV Act and to acquire, dispose of, invest in and hold by way of Investment, Shares, stocks, Share units or other participations in collective Investment undertakings, securities, bonds, rights to acquire securities whether by subscription or exchange, obligations, certificates of deposit, deposits with credit institutions, money market instruments, treasury bills, trade bills, bank acceptances, bills of exchange, fixed rate securities, 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, monetary and financial instruments of all kinds, futures contracts, swaps, options contracts, contracts for differences, commodities, forward rate agreements and other financial derivative instruments, debentures, debenture stock, warrants, commercial paper, promissory notes, mortgage backed securities, asset backed securities and securities of all kinds created, issued or guaranteed by any government, sovereign, ruler, commissioners, body or authority, supreme, state, municipal, local, supranational or otherwise, in any part of the world, or by any company, bank, association or partnership, whether with limited or unlimited liability constituted or carrying on business or activities in any part of the world, units of or participation in any unit trust scheme, mutual fund or collective Investment scheme in any part of the world, policies of insurance and assurance, intellectual property rights of every kind and interests therein, royalties and interests on royalties derived from any and all types of products (at any stage of development) or services, domestic and foreign currency and any present or future rights and interests to or in any of the foregoing, to subscribe for the same either conditionally or otherwise, to enter into underwriting, stocklending and redemption and similar contracts with respect thereto, to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof and from time to time to sell, exchange, lend, vary or dispose of and grant and dispose of options over any of the foregoing 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;
- (B) to acquire, deposit or lend money, securities and/or property (being those items which the ICAV is empowered to invest or otherwise deal in pursuant to 4.1(A)) to or with such persons, 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;
- (C) to employ, utilise or invest in derivative instruments and techniques of all kinds and for direct Investment purposes, where permitted by a Fund's Investment objectives and policies, and/or the efficient management of the ICAV's Assets

as may be permitted by the Regulations (and any amendments thereto for the time being in force) and, in particular and without prejudice to the generality of the foregoing, to enter into, accept, issue and otherwise deal with sale and repurchase agreements, futures contracts, index futures, options, securities lending agreements, short sales agreements, when-issued, delayed delivery and forward commitment agreements, foreign currency spot and forward rate exchange contracts, forward rate agreements, swaps, collars, floors and caps and other foreign exchange or interest rate hedging and Investment arrangements;

- (D) where required for the direct pursuit of the business of the ICAV, to acquire by purchase, lease, exchange, hire or otherwise lands and real or personal property wheresoever situate of any kind or of any tenure or any interest in the same; to erect and construct houses, buildings or works of every description on any land of the ICAV, or upon any other lands or property, and to pull down, rebuild, enlarge, alter or improve existing houses, buildings or works thereon and generally to manage deal with and improve the property of the ICAV; and to sell, lease, let, mortgage or otherwise dispose of the lands, houses, buildings, and other property of the ICAV;
- (E) to carry on business as capitalists and financiers, and to undertake and carry on all kinds of financial, trust, agency, broking, and other operations including underwriting, issuing on commission or otherwise of stocks and securities of all kinds;
- (F) to receive monies on loan and to borrow or raise money in any currency and secure or discharge any debt or obligation of or binding on the ICAV in any manner and in particular, but without limitation, by the issue of debentures and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, debenture, debenture stock, bond, indemnity, lien or security of whatsoever nature against the whole or any part of the ICAV's property or Assets (whether present or future) including uncalled capital or generally in any manner as the Directors shall from time to time determine, and also by a similar mortgage charge or lien to secure or guarantee the performance of any obligation or liability undertaken by the ICAV;
- (G) to guarantee the payment of money by, or the performance of any contracts, liabilities, obligations, or engagements of any company, firm or person (including, without limitation, any unincorporated association, partnership, limited partnership, trust, unit trust, mutual fund or other collective Investment scheme in any part of the world) and to grant guarantees and indemnities of every description, and to undertake obligations of every description;
- (H) to enter into any arrangements with any government, or authority, supreme, municipal, local or otherwise, and to obtain from any such government or authority any rights, concessions and privileges that may seem conducive to the objects of the ICAV or any of them;
- (I) to create, maintain, invest and deal with any reserve or sinking Funds for redemption of obligations of the ICAV or for any other purpose of the ICAV;
- (J) to employ any person, firm, company or other body to investigate and examine the conditions, prospects, values, character and circumstances of any business

concern or undertaking and generally of any assets, concessions, properties or rights;

- (K) to guarantee, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and Assets (present and future) and uncalled capital of the ICAV or by both such methods the performance of the obligations of, and the repayment or payment of the principal amounts of and the premiums, interest and dividends on any security of any person, firm or company;
- (L) to lend the Funds of the ICAV with or without security and at interest or free of interest and on such terms and conditions as the Directors shall from time to time determine;
- (M) to take out, acquire, surrender and assign policies of assurance with any insurance company or companies it may think fit payable at fixed or uncertain dates or upon the happening of any contingency whatsoever and to pay the premiums thereon;
- (N) to promote and aid in promoting, constitute, form or organise any ICAV, company or companies, syndicates or partnerships of all kinds for the purpose of acquiring and undertaking any property and liabilities of the ICAV, or of advancing directly or indirectly the objects thereof, or for any purpose which the ICAV may think expedient;
- (O) to promote and aid in promoting, constitute, form or organise any ICAV, company or companies, syndicates or partnerships of all kinds in any part of the world and to subscribe for Shares therein or other securities thereof for the purpose of carrying on any business which the ICAV is authorised to carry on or of advancing directly or indirectly the objects thereof, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV;
- (P) to amalgamate, merge, reconstruct, convert or enter into partnership or into any arrangement for sharing profits, union of interest, joint venture, reciprocal concessions or co-operation with any person, company or collective Investment scheme (howsoever constituted) carrying on, engaged in, or about to carry on or engage in any business or transaction which the ICAV is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the ICAV, and to take or otherwise acquire and hold, sell, re-issue, or otherwise deal with Shares or stock in or securities or obligations of, and to subsidise or otherwise assist any such securities or obligations or any dividends upon any such Shares or stock;
- (Q) to apply for, purchase or otherwise acquire any patents, trademarks, copyrights, designs, licences, and like rights, conferring an exclusive or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the ICAV or the acquisition of which may seem calculated directly or indirectly to benefit the ICAV and to use, exercise, develop, sell, mortgage, grant licences in respect of, or otherwise turn to account the rights and information so acquired;
- (R) to establish and/or carry on any other business or businesses which may seem to the ICAV capable of being conveniently carried on in connection with any business which the ICAV is authorised to carry on or may seem to the ICAV

calculated directly or indirectly to benefit the ICAV or to enhance the value of or render profitable any of the ICAV's properties or rights;

- (S) to acquire and carry on all or any part of the business, goodwill or property, and to undertake any liabilities of any person, firm, association, company, unincorporated association, partnership, limited partnership, trust, unit trust or other collective Investment scheme possessed of property suitable for any of the purposes of the ICAV, or carrying on or proposing to carry on any business which the ICAV is authorised to carry on, and as the consideration for the same to pay cash or to issue any fully paid up Shares, debentures, or obligations of the ICAV or undertake all or any of the liabilities of such person, firm, association, company, unincorporated association, partnership, limited partnership, trust, unit trust or other collective Investment scheme;
- (T) to create, issue, make, draw, endorse, execute, discount, accept, negotiate or otherwise deal with redeemable debentures or bonds or other obligations, bills of exchange, promissory notes, letters of credit or other negotiable or mercantile or transferable instruments;
- (U) to distribute among the members of the ICAV in specie any Assets of the ICAV or any proceeds of sale or disposal of any Assets of the ICAV;
- (V) to sell, let, develop, dispose of or otherwise deal with the undertaking or all or any part of the property real or personal, rights or privileges of the ICAV upon such terms as the ICAV may think fit, with power to accept as the consideration, any Shares, stocks, debentures, securities or obligations of or interest in any other collective Investment scheme or company;
- (W) to establish and support or aid in the establishment and support of associations, institutions and conveniences calculated to benefit any of the employees or ex-employees of the ICAV or any associated company, or the dependants or connections of such persons, and to grant pensions and allowances and to make payment towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition, or for any public general or useful object;
- (X) to remunerate any companies, firm or person for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any of the Shares in the ICAV's capital or any debentures or other securities of the ICAV or in or about the promotion of the ICAV or the conduct of its business and whether by cash payment or by the allotment to him or them of stocks, Shares, debentures, bonds or other securities of the ICAV, credited as paid up in full in part or otherwise;
- (Y) to promote any ICAV, company or companies for the purpose of its or their acquiring all or any of the property, rights and liabilities of the ICAV, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV and to pay all the expenses of or incidental to such promotion;
- (Z) to pay out of the Funds of the ICAV all expenses which the ICAV may lawfully pay incidental to the formation, registration and advertising of or raising money for the ICAV and the issue of its capital or any Share Class thereof, including brokerage and commissions for obtaining applications for or taking, placing or procuring the underwriting of Shares, stocks, debentures, bonds or other

securities of the ICAV and any other expenses which the Directors shall consider to be in the nature of preliminary expenses and to amortise such expenses over such period or periods as the Directors may determine;

- (AA) to pay for any property or rights acquired by the ICAV either in cash or by the issue of fully paid Shares of the ICAV;
- (BB) to exercise all or any of the powers aforesaid in any part of the world, and as principals, agents, contractors, trustees or otherwise, and by or through trustees, depositaries, agents, attorneys or otherwise, and either alone or in conjunction with others;
- (CC) to do all such other things as the ICAV may deem incidental or conducive to the attainment of any of the objects of the ICAV;
- (DD) to procure the ICAV to be registered or recognised in any part of the world outside Ireland to reduce the capital of the Company in any manner permitted by law;
- (EE) each of the ancillary powers of the ICAV (whether enumerated or not) is to be interpreted and exercised as ancillary to the object of the ICAV but separate from and ranking equally to any other ancillary power.

SHARE CAPITAL, UMBRELLA FUND, SEGREGATED LIABILITY AND SHAREHOLDERS RIGHTS

5. Share capital

- 5.1 The Share capital of the ICAV is divided into 2 Subscriber Shares of EUR 1.00 each and 500,000,000,000 unclassified Shares of no par value.
- 5.2 The Share capital of the ICAV shall at all times be equal to the value for the time being of the issued Share capital of the ICAV.
- 5.3 The actual value of the paid-up Share capital of the ICAV shall be at all times equal to the Net Asset Value of the ICAV.

6. Umbrella fund and segregated liability

- 6.1 The ICAV is an umbrella fund with segregated liability between sub-funds comprising separate portfolios of Assets and liabilities attributable thereto referred herein as Fund(s), which may be established as open-ended Funds and which may comprise one or more Share Class or series of Shares, by reference to which Shares are issued.
- 6.2 Despite any enactment or rule of law to the contrary:
 - (A) any liability incurred on behalf of or attributable to any Fund of the ICAV shall be discharged solely out of the Assets of that Fund, and
 - (B) no umbrella fund or any director, receiver, liquidator, provisional liquidator or other person shall apply, or be obliged to apply, the Assets of any such Fund in satisfaction of any liability incurred on behalf of or attributable to any other Fund of this ICAV.

7. **Issue of Shares**

- 7.1 Shares may be issued as fully paid and shall have no par value.
- 7.2 The Directors may from time to time issue fractions of Shares. Notwithstanding anything contained in this Instrument of Incorporation the Shareholder of a fraction of a Share may not exercise any voting rights in respect of such Share.
- 7.3 The Directors may issue any of the unclassified Shares as participating Shares in a Fund with such rights or restrictions as the Directors may determine. The Directors may issue more than one Share Class (or series of Share Class) in a Fund. The provisions contained in clauses 1 to 9 of Schedule 1 shall govern the terms and conditions relating to the issue of Shares.
- 7.4 The Directors, on the allotment and issue of any Shares and subject to the provisions of the ICAV Act and the requirements of the Central Bank, may impose restrictions on the voting rights, transferability or disposal of the Shares as may be considered by the Directors to be in the best interests of the Shareholders as a whole.
- 7.5 The Directors may in their absolute discretion refuse to accept any application for Shares in the ICAV or accept any application in whole or in part without assigning any reason therefore and if an application for Shares is rejected, the Directors may return the application monies or the balance thereof to the applicant, with or without interest at the Director's discretion, and at such time, place and manner as the Directors may determine.
- 7.6 The Directors are generally and unconditionally authorised to exercise all powers of the ICAV to allot relevant securities, including fractions thereof up to an amount equal to the authorised but as yet unissued Share capital of the ICAV.
- 7.7 Shares issued solely for the purpose of the incorporation of the ICAV and to enable the ICAV to seek authorisation under the UCITS Regulations from the Central Bank will be issued at an issue price of €1.00 per Share and shall be known as Subscriber Shares. Subscriber Shares may be redeemed by the ICAV upon request at a price of €1.00 per Share and Subscriber Shares so redeemed shall be cancelled. Subscriber Shares may at the discretion of the Directors be transferred to investors who apply for Shares during the Initial Offer Period of a Fund and (in such circumstances) prior to the expiration of such Initial Offer Period will be re-classified as Shares of the relevant Fund.
- 7.8 Notwithstanding any other provision of this Instrument of Incorporation, the Directors may permit title to the Shares to be transferred by means of a computer based system and the Directors shall have the power to implement any arrangements they think fit for evidencing title and arranging transfer of such ancillary arrangements (including any AML/CTF requirements) which seem to them necessary or desirable in respect of Shares to be transferred in such a system.
- 7.9 Notwithstanding any other provision in this Instrument of Incorporation, in accordance with the requirements of the Central Bank, and where provided for in the relevant Supplement, the Directors may issue Shares in a Fund in series (which may be issued at a set amount per Share and redeemed at their own Net Asset Value per Share) for the purposes of the separate calculation of performance fees (or equivalent), or for any other reason permitted by the Central Bank, and reference to Share Class or Share Classes in this Instrument of Incorporation will be construed accordingly including,

without limitation, as regards subscriptions, redemptions and distributions. Such series may be consolidated or converted into other series of Shares in the same Fund or provided for in the Prospectus or the relevant Supplement.

- 7.10 The Directors may in their absolute discretion at any time, without notice, discontinue the issue and sale of Shares of any Fund.

8. **Variation of rights**

- 8.1 For the purpose of enabling Shares of one Share Class to be re-designated or converted into Shares of another Share Class, the ICAV may, subject to the UCITS Regulations, take such action as may be necessary to vary or abrogate the rights attached to Shares of one Share Class to be converted so that such rights are replaced by the rights attached to the other Share Class into which the Shares of the original Share Class are to be converted.

- 8.2 The rights conferred upon the Shareholders of the Shares of any Share Class issued with preferred or other rights shall not, unless otherwise expressly provided by this Instrument of Incorporation or the terms of the issue of the Shares of that Share Class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith or subordinate thereto.

9. **Trusts not recognised**

No notice of any trust, express, implied or constructive shall be entered on the Register. Except as required by law, no person shall be recognised by the ICAV as holding any Share upon any trust, and the ICAV shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share or any interest in any fractional part of a Share or (except only as by this Instrument of Incorporation or by law otherwise provided) any other rights in respect of any Share except an absolute right to the entirety thereof in the Shareholder. This shall not preclude the ICAV from requiring the Shareholders or a transferee of Shares to furnish the ICAV with information as to the beneficial ownership of any Share when such information is reasonably required by the ICAV.

10. **Disclosure of interests**

- 10.1 Notwithstanding the provisions of the immediately preceding clause, the Directors, at any time and from time to time if, in their absolute discretion, they consider it to be in the interests of the ICAV to do so, may give a notice to a Shareholder or Shareholders (or any of them) requiring such Shareholder or Shareholders to notify the ICAV in writing within such period as may be specified in such notice (which shall not be less than twenty-eight (28) days from the date of service of such notice) of full and accurate particulars of all or any of the following matters, namely:

- (A) his interest in such Share;
- (B) if his interest in the Share does not consist of the entire beneficial interest in it, the interests of all persons having any beneficial interest in the Share (provided that one joint Shareholder shall not be obliged to give particulars of interests of persons in the Share which arise only through another joint Shareholder); and
- (C) any arrangement (whether legally binding or not) entered into by him or any person having any beneficial interest in the Share whereby it has been agreed

or undertaken or the Shareholder can be required to transfer the Share or any interest therein to any person (other than a joint Shareholder) or to act in relation to any meeting of the ICAV or of any Share Class of the ICAV in a particular way or in accordance with the wishes or directions of any other person (other than a person who is a joint Shareholder of such Share).

- 10.2 If, pursuant to any notice given under clause 10.1, the person stated to own any beneficial interest in a Share or the person in favour of whom any Shareholder (or other person having any beneficial interest in the Share) has entered into any arrangements referred to in clause 10.1(C), is a body corporate, trust, society or any other legal entity or association of individuals and/or entities, the Directors, at any time and from time to time if, in their absolute discretion, they consider it to be in the best interests of the ICAV to do so, may give a notice to the Shareholder or Shareholders of such Share (or any of them) requiring such Shareholder or Shareholders to notify the ICAV in writing within such period as may be specified in such notice (which shall not be less than twenty-eight (28) days from the date of service of such notice) of full and accurate particulars of the name and addresses of the individuals who Control (whether directly or indirectly and through any number of vehicles, entities or arrangements) the beneficial ownership of all the Shares, interests, units or other measure of ownership of such body corporate, trust, society or other entity or association wherever the same shall be incorporated, registered or domiciled or wherever such individuals shall reside provided that if at any stage of such chain of ownership the beneficial interest in any Share shall be established to the satisfaction of the Directors to be in the ownership of any body corporate any of whose Share capital is listed or dealt in on any bona fide stock exchange, unlisted securities market or over-the-counter securities market, it shall not be necessary to disclose details of the individuals ultimately Controlling the beneficial interests in the Shares of such body corporate.
- 10.3 The Directors, if they think fit, may give notices under clauses 10.1 and 10.2 at the same time on the basis that the notice given pursuant to clause 10.2 shall be contingent upon disclosure of certain facts pursuant to a notice given pursuant to clause 10.1.
- 10.4 The Directors may require (before or after the receipt of any written particulars under this clause) any such particulars to be verified by statutory declaration.
- 10.5 The Directors may serve any notice pursuant to the terms of this clause irrespective of whether or not the Shareholder on whom it shall be served may be dead, bankrupt, insolvent or otherwise incapacitated and no such incapacity or any unavailability of information or inconvenience or hardship in obtaining the same shall be a satisfactory reason for failure to comply with any such notice provided that if the Directors in their absolute discretion think fit, they may waive compliance in whole or in part with any notice given under this clause in respect of a Share in any case of bona fide unavailability of information or genuine hardship or where they otherwise think fit but no such waiver shall prejudice or affect in any way any non-compliance not so waived whether by the Shareholder concerned or any other joint Shareholder or by any person to whom a notice may be given at any time.
- 10.6 For the purpose of establishing whether or not the terms of any notice served under this clause shall have been complied with the decision of the Directors in this regard shall be final and conclusive and shall bind all persons interested.

11. **Payment of commission**

Subject to the provisions of the ICAV Act, and the requirements of the Central Bank and this Instrument of Incorporation, the ICAV may pay commissions and any such commission may be satisfied by the payment of cash or by the allotment of fully paid Shares or partly in one way and partly in the other. On any issue of Shares the ICAV may also pay such brokerage as may be lawful.

REDEMPTION AND EXCHANGE OF SHARES

12. **Right of redemption**

12.1 Subject to clause 12.2, the Shares of the ICAV shall, at the request of any of the Shareholders, be redeemed by the ICAV directly or indirectly out of the Assets unless and to the extent as may be approved by the Central Bank and subject to such requirements as may be imposed by the Central Bank under the ICAV Act or any other enactment and the provisions of this Instrument of Incorporation.

12.2 The ICAV shall not redeem its own Shares unless they are fully paid, but nothing in this clause shall prevent the ICAV purchasing Shares in accordance with the provisions of clause 105.

12.3 Shareholders who subscribe for Shares shall have the right to request the ICAV to redeem their Shares in accordance with the terms and conditions set out in clauses 12 to 16 of Schedule 1 and in accordance with any requirements as may be imposed by the Central Bank.

13. **Right of exchange**

Shareholders shall have the right to exchange all or any of their Shares in accordance with the terms and conditions set out in clause 10 of Schedule 1.

CONFIRMATION OF ENTRY IN THE REGISTER/SHARE CERTIFICATES

14. **Entry in the registry of Shareholders/Share certificates**

Written confirmation of entry in the Register of Shareholders shall be provided to each Shareholder in respect of his holding of Shares within such period as the Directors may determine from time to time after receipt of payment for the Shares in question and the necessary documentation or lodgement and registration of a transfer (or within such other period as the terms of issue shall provide). Notwithstanding any other provisions of this Instrument of Incorporation and unless the Directors determine otherwise, Share certificates signed by the Depository will not be issued to any Shareholder in respect of a Shareholder's Shares in the ICAV.

15. **Balance and exchange certificates**

15.1 Where only some of the Shares comprised in a Share certificate (if issued) are redeemed, transferred or exchanged the old certificate shall be cancelled and the new certificate for the balance of such Shares shall be issued in lieu without charge.

15.2 Any two or more certificates representing Shares of any one Share Class held by any Shareholder at his request may be cancelled and a single new certificate for such Shares issued in lieu, without charge unless the Directors otherwise determine. If any

Shareholder shall surrender for cancellation a Share certificate representing Shares held by him and request the ICAV to issue in lieu two or more Share certificates representing such Shares in such proportions as he may specify, the Directors may comply, if they think fit, with such request.

16. **Share warrants**

The Directors may issue warrants (hereinafter called Share warrants) stating that the bearer is entitled to the Shares therein specified and may provide by coupons or otherwise for the payment of future dividends on the Shares included in such warrants. The Directors may determine and from time to time vary the conditions upon which Share warrants shall be issued. The Directors may also determine and from time to time vary the conditions upon which the bearer of a Share warrant shall be entitled to receive notices of and attend and vote at general meetings or to join in requisitioning general meetings and upon which a Share warrant may be surrendered and the name of the Shareholder entered in the Register in respect of the Shares therein specified. Subject to such conditions and to this Instrument of Incorporation, the bearer of a Share warrant shall be a member of the ICAV to the fullest extent. The Shareholder of a Share warrant shall hold such warrant subject to the conditions for the time being in force with regard to Share warrants whether made before or after the issue of such warrant.

17. **Replacement of Share certificates and Share warrants**

If a Share certificate or Share warrant is defaced, worn out, lost, stolen or destroyed, it may be replaced on such terms (if any) as to evidence and indemnity and payment of any exceptional expenses incurred by the ICAV in investigating evidence or in relation to any indemnity as the Directors may determine but otherwise free of charge, and (in the case of defacement or wearing out) on delivery up of the old certificate or warrant.

18. **Other methods of recording title**

Nothing in this Instrument of Incorporation shall preclude title to any Shares of the ICAV being recorded other than in writing in accordance with such arrangements as may from time to time be permitted by the ICAV Act and approved by the Directors.

TRANSFER OF SHARES

19. **Form of instrument of transfer**

Subject to such of the restrictions of this Instrument of Incorporation and to such of the conditions of issue as may be applicable, the Shares of any Shareholder may be transferred by instrument in writing in any usual or common form or any other form which the Directors may approve.

20. **Execution of instrument of transfer**

The instrument of transfer of any Share shall be executed by or on behalf of the transferor Shareholder. The transferor shall be deemed to remain the Shareholder of the Share until the name of the transferee is entered in the Register in respect thereof.

21. **Payment of taxation upon transfer**

The Directors may redeem and cancel a sufficient portion of the transferor's Shares to discharge any taxation payable to any tax authorities in respect of a transfer of Shares by a Shareholder.

22. **Refusal to register transfers**

22.1 The Directors in their absolute discretion and without assigning any reason therefor may decline to register any transfer of Shares including in the following circumstances:

- (A) any transfer of a Share to a person who is not a Permitted Investor;
- (B) any transfer to or by a minor or person of unsound mind;
- (C) any transfer unless the transferee of such Shares would following such transfer be the Shareholder of Shares with a value at the then current Subscription Price equal to or greater than the Minimum Initial Investment Amount;
- (D) any transfer in circumstances where as a result of such transfer the transferor or transferee would hold less than the Minimum Holding;
- (E) any transfer in regard to which any payment of taxation remains outstanding;
- (F) any transfer to a person or entity who or which does not provide all necessary AML/CTF documentation or clear such AML/CTF checks as the Directors or their delegate may determine;
- (G) any transfer where the transferee has failed to provide the ICAV or its agent with any documentation reasonably required by the ICAV or its agent in respect of tax information exchange requirements;
- (H) any transfer where the transferee has failed to provide the ICAV or its agent with any documentation reasonably required by the ICAV or its agent;
- (I) any transfer to a person or entity who failed to provide the ICAV with a completed application form or who breached or falsified representations on subscription documents or failed to provide information requested by the ICAV or its agent; or
- (J) any transfer which would result in a contravention of any provision of law (including any law that is for the time being in force in a country or territory other than the State);
- (K) in any other circumstances set out in the Prospectus.

22.2 Without limiting the generality of the foregoing, the Directors may decline to recognise any instrument of transfer unless the instrument of transfer is:

- (A) accompanied by the certificate for the Shares to which it relates (if issued) and such other evidence as the Directors may require to show the right of the transferor to make the transfer;
- (B) in respect of one Share Class only;

- (C) in favour of not more than four transferees;
- (D) lodged at the Office or at such other place as the Directors may appoint;
- (E) the transferee clears such documentation and money laundering checks as the Directors may determine;
- (F) any transfer where the transferee has failed to provide the ICAV or its agent with any documentation reasonably required by the ICAV or its agent; and
- (G) any transfer to a person or entity who breached or falsified representations on subscription documents.

22.3 No Shareholder may create or permit to subsist any Encumbrance on or affecting any Shares held by such Shareholder without the consent of the Directors which may be withheld in their absolute discretion without assigning any reason for such decision.

23. **Procedure on refusal**

If the Directors refuse to register a transfer then, within two (2) months after the date on which the transfer was lodged with the ICAV, they shall send to the transferee notice of the refusal, provided that the ICAV or the Directors shall not be required to provide any such notice which would result in a contravention of any provision of law (including any law that is for the time being in force in a country or territory other than the State).

24. **Closing of transfer books**

The registration of transfers of Shares or of transfers of any Share Class may be deferred at such times and for such periods (not exceeding thirty (30) days in each year) as the Directors may determine.

25. **Registration fees**

A fee may be charged in respect of any transfer or for the registration of any instrument of transfer or other document relating to or affecting the title to any Share.

26. **Retention of transfer instruments**

The ICAV shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the Directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

27. **Renunciation of allotment**

Nothing in this Instrument of Incorporation shall preclude the Directors from recognising a renunciation of the allotment of any Shares by the allottee in favour of some other person provided such other person is a Permitted Investor.

28. **Compulsory transfer of Shares**

The Directors shall have the power (but shall not be under any duty) to impose such restrictions as they may think necessary and/or to arrange for the compulsory transfer of Shares acquired by or on behalf of a person who is not a Permitted Investor or who has failed to furnish the Directors such evidence and/or undertakings to be furnished to them as they

may require for the purpose of any restriction imposed for compliance with any AML/CTF provisions or to comply with any tax information exchange requirements applicable to the ICAV or otherwise and in accordance with the provisions set out in clause 20 of Schedule 1.

TRANSMISSION OF SHARES

29. Death of Shareholder

If a Shareholder dies the survivor or survivors where he was a joint Shareholder, and his personal representatives where he was a sole Shareholder or the only survivor of joint Shareholder, shall be the only persons recognised by the ICAV as having any title to his interest in the Shares; but nothing herein contained shall release the estate of a deceased Shareholder from any liability in respect of any Share which had been jointly held by him.

30. Transmission on death or bankruptcy/minors

Any guardian of an infant Shareholder or any curator or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death or bankruptcy of a Shareholder may elect, upon such evidence being produced as the Directors may properly require (including in respect of AML/CTF and tax information exchange requirements), either to become the Shareholder of the Share or to make such transfer thereof as the deceased or bankrupt Shareholder or Shareholder under a disability could have made. If he elects to become the Shareholder he shall give notice to the ICAV to that effect and supply the ICAV or its agent with whatever documentation and/or information as the ICAV or its agent reasonably requests. If he elects to have another person registered he shall execute an instrument of transfer of the Share to that person. All of this Instrument of Incorporation relating to the transfer of Shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the Shareholder and the death or bankruptcy or disability of the Shareholder had not occurred.

31. Rights before registration

A person becoming entitled to a Share by reason of the death or bankruptcy of a Shareholder (upon supplying to the ICAV such evidence as the Directors may reasonably require to show his title to the Share) shall have the rights to which he would be entitled if he were the Shareholder of the Share, except that, before being registered as the Shareholder of the Share, he shall not be entitled in respect of it to attend or vote at any meeting of the ICAV or at any separate meeting of the Shareholders of any Share Class in the ICAV, so, however, that the Directors, at any time, may 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 thereupon may withhold payment of all dividends, bonuses or other moneys payable in respect of the Share until the requirements of the notice have been complied with.

ALTERATION OF SHARE CAPITAL

32. Increase of capital

32.1 The Directors from time to time may increase the authorised Share capital by such number as the resolution shall prescribe.

32.2 Subject to the provisions of the ICAV Act and this Instrument of Incorporation, the new Shares shall be issued to such persons, upon such terms and conditions and with such rights and privileges annexed thereto as the Directors shall determine.

33. **Consolidation, sub-division and cancellation of capital**

- 33.1 The Directors may, from time to time and subject to any requirements of the Central Bank:
- (A) consolidate and divide all or any of the Share capital of the ICAV into Shares of larger amount;
 - (B) subdivide the Shares, or any of them, into Shares of smaller amount or value, (and so that the resolution whereby any Share is sub-divided may determine that, as between the Shareholders of the Shares resulting from such sub-division, one or more of the Shares may have, as compared with the others, any such preferred, deferred or other rights or be subject to any such restrictions as the ICAV has power to attach to unissued or new Shares);
 - (C) cancel any Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and reduce the amount of its authorised Share capital by the amount of the Shares so cancelled.
- 33.2 Subject to any requirements of the Central Bank, the ICAV may redenominate the currency of any Share Class, provided that the Shareholders in the relevant Share Class have been notified of the change.

GENERAL MEETINGS

34. **Annual general meetings**

- 34.1 Subject to clause 34.4, the ICAV shall hold in each year a general meeting as its annual general meeting in addition to any other meeting in that year and shall specify the meeting as such in the notice calling it.
- 34.2 Subject to clause 34.4, not more than fifteen (15) months shall elapse between the date of one (1) annual general meeting and that of the next PROVIDED THAT so long as the ICAV holds its first annual general meeting within eighteen (18) months of its registration it need not hold it in the year of its registration or in the following year.
- 34.3 Subject to clause 34.4, subsequent annual general meetings shall be held once in each year.
- 34.4 The Directors may elect to dispense with the holding of an annual general meeting by giving at least sixty (60) days' written notice to all the Shareholders.
- 34.5 An election under clause 34.4 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 but where an election under clause 34.4 has effect for a year:
- (A) one (1) or more Shareholders holding, or together holding, not less than 1% of the voting rights in the ICAV; or
 - (B) the Auditors;

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 (1) month before the end of that year and the ICAV shall hold the required meeting.

35. **Extraordinary general meetings**

All general meetings other than annual general meetings shall be called extraordinary general meetings.

36. **Convening general meetings**

The Directors may, whenever they think fit, convene general meetings. Extraordinary general meetings may also be convened on such requisition, or in default may be convened by such requisitionists and in such manner as may be provided by the ICAV Act. If at any time there are not within the State sufficient Directors capable of acting to form a quorum, any Director or any Shareholder may convene an extraordinary general meeting in the same manner as nearly as possible as that in which general meetings may be convened by the Directors.

37. **Notice of general meetings**

37.1 Subject to the Directors resolving to allow a general meeting to be called by shorter notice and subject to such extended notice requirements as may be set out in the ICAV Act, an annual general meeting and an extraordinary general meeting called for the passing of a special resolution shall be called by at least twenty-one (21) Clear Days' notice and all other extraordinary general meetings shall be called by at least fourteen (14) Clear Days' notice.

37.2 Any notice convening a general meeting shall specify the time and place of the meeting and, in the case of special business, the general nature of that business and, in reasonable prominence, that a Shareholder entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his place and that a proxy need not be a Shareholder. Subject to any restrictions imposed on any Shares, the notice shall be given to all the Shareholders and to the Directors and the Auditors.

37.3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.

PROCEEDINGS AT GENERAL MEETINGS

38. **Quorum for general meetings**

38.1 No business other than the appointment of a chairperson shall be transacted at any general meeting unless a quorum of Shareholders is present at the time when the meeting proceeds to business. Except as provided in relation to an adjourned meeting, two (2) persons entitled to vote upon the business to be transacted, each being a Shareholder or a proxy for a Shareholder or a duly authorised representative of a corporate Shareholder, shall be a quorum.

38.2 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the Directors may determine. If at the adjourned meeting such a quorum is not present within half an hour from the time appointed for the

meeting, the meeting, if convened otherwise than by resolution of the Directors, shall be dissolved, but if the meeting shall have been convened by resolution of the Directors, one (1) person entitled to be counted in a quorum present at the meeting shall be a quorum.

39. **Special business**

All business shall be deemed special that is transacted at an extraordinary general meeting. All business that is transacted at an annual general meeting shall also be deemed special, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and reports of the Directors and Auditors, the re-appointment of the retiring Auditors and the fixing of the remuneration of the Auditors.

40. **Chairperson of general meetings**

40.1 The chairperson of the board of Directors or, in its absence, the deputy chairperson (if any) or, in its absence, some other Director nominated by the Directors shall preside as chairperson at every general meeting of the ICAV. If at any general meeting none of such persons shall be present within fifteen (15) minutes after the time appointed for the holding of the meeting and willing to act, the Directors present shall elect one (1) of their number to be chairperson of the meeting and, if there is only one (1) Director present and willing to act, that person shall be chair.

40.2 If at any meeting no Director is willing to act as chairperson or if no Director is present within fifteen (15) minutes after the time appointed for holding the meeting, the Shareholders present (in person or by proxy or by representative) and entitled to vote shall choose one (1) of the Shareholder (including his proxy or its duly authorised representative) personally present to be chairperson of the meeting.

41. **Directors' and Auditors' right to attend general meetings**

A Director shall be entitled, notwithstanding that he/she is not a Shareholder, to attend and speak at any general meeting and at any separate meeting of the Shareholders of any Share Class in the ICAV. The Auditors shall be entitled to attend any general meeting and to be heard on any part of the business of the meeting which concerns them as the Auditors.

42. **Adjournment of general meetings**

The chairperson, with the consent of a meeting at which a quorum is present, may (and if so directed by the meeting, shall) adjourn the meeting from time to time (or without assigning a day for the adjourned meeting) and from place to place, but no business shall be transacted at any adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. Where a meeting is adjourned without assigning a day for the adjourned meeting, the time and place for the adjourned meeting shall be fixed by the Directors. When a meeting is adjourned for fourteen (14) days or more or without assigning a day for the adjourned meeting, at least seven (7) Clear Days' notice shall be given specifying the time and meeting and the general nature of the business to be transacted. Save as aforesaid it shall not be necessary to give any notice of an adjourned meeting.

43. **Determination of resolutions**

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly

demanded. Unless a poll is so demanded a declaration by the chairperson 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 minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn before the poll is taken but only with the consent of the chairperson, and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

44. **Entitlement to demand poll**

44.1 A poll may be demanded:

- (A) by the chairperson of the meeting;
- (B) by at least two (2) Shareholders present (in person or by proxy) having the right to vote at the meeting; or
- (C) by any Shareholder or Shareholders present (in person or by proxy) representing not less than one-tenth of the total voting rights of all the Shareholders having the right to vote at the meeting.

45. **Taking of a poll**

45.1 Save as provided in clause 45.2, a poll shall be taken in such manner as the chairperson directs and he/she may appoint scrutineers (who need not be Shareholders) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

45.2 A poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time (not being more than thirty (30) days after the poll is demanded) and place as the chairperson of the meeting may direct. 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 was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

45.3 No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven (7) Clear Days' notice shall be given specifying the time and place at which the poll is to be taken.

46. **Votes of Shareholders**

46.1 When the Shares in question carry voting rights in respect of a particular matter, votes may be given either personally or by proxy. Subject to any rights or restrictions for the time being attached to any Share Class(es):

- (A) on a show of hands every Shareholder, who is present in person or by proxy, shall have one (1) vote and the Shareholder (s) of Subscriber Shares present in person or by proxy shall have one (1) vote in respect of all the Subscriber Shares in issue;

- (B) on a poll every Shareholder present in person or by proxy shall have one (1) vote for every Share of which he is the Shareholder and every Shareholder of a Subscriber Share present in person or by proxy shall have one (1) vote in respect of his holding of Subscriber Shares;
- (C) on a poll of all the Shareholders of Shares in a Fund, where there is more than one (1) Share Class in existence in that Fund, the voting rights of such Shareholders may at the discretion of the Directors be adjusted in such manner, determined by the Directors, so as to reflect the most recently calculated price at which the Shares of each of the Share Classes in question may be redeemed by the ICAV; and
- (D) a Shareholder or Shareholders who hold a fraction of a Share may not exercise any voting rights, whether on a show of hands or on a poll, in respect of such fraction of a Share.

47. **Written resolutions**

A resolution in writing executed, whether in manuscript, electronic or other form, by or on behalf of such percentage of Shareholders as may be specified in the notice to Shareholders of such resolution who would have been entitled to vote upon it if it had been proposed at a meeting at which he was present shall be as effective as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one (1) or more Shareholders. In the case of a corporation a resolution in writing may be signed on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative.

48. **Chairperson's casting vote**

Where there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote in addition to any other vote he/she may have.

49. **Voting by joint Shareholders**

Where there are joint Shareholders of a Share, the vote of the senior who tenders a vote, whether in person or by proxy, in respect of such Share shall be accepted to the exclusion of the votes of the other joint Shareholders and for this purpose seniority shall be determined by the order in which the names of the Shareholders stand in the Register in respect of the Share.

50. **Voting by incapacitated Shareholders**

A Shareholder of unsound mind, or in respect of whom an order has been made by any court having jurisdiction (whether in the State or elsewhere) in matters concerning mental disorder, may vote, whether on a show of hands or on a poll, by his committee, receiver, guardian or other person appointed by that court and any such committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll. Evidence to the satisfaction of the Directors of the authority of the person claiming to exercise the right to vote shall be deposited at the Office or at such other place as is specified in accordance with this Instrument of Incorporation for the deposit of instruments of proxy by such time as the Directors may determine before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.

51. **Restriction of voting rights**

- 51.1 If at any time the Directors shall determine that a Specified Event (as defined in clause 51.5) shall have occurred in relation to any Share or Shares the Directors may serve a notice to such effect on the Shareholder or Shareholders thereof. Upon the service of any such notice (in this Instrument of Incorporation referred to as a “restriction notice”) no Shareholder or Shareholders of the Share or Shares specified in such restriction notice shall be entitled, for so long as such restriction notice shall remain in force, to attend or vote at any general meeting, either personally or by proxy.
- 51.2 A restriction notice shall be cancelled by the Directors as soon as reasonably practicable, but in any event not later than forty-eight (48) hours, after the Shareholder or Shareholders concerned shall have remedied the default by virtue of which the Specified Event shall have occurred. A restriction notice shall automatically cease to have effect in respect of any Share transferred upon registration of the relevant transfer provided that a restriction notice shall not cease to have effect in respect of any transfer where no change in the beneficial ownership of the Share shall occur and for this purpose it shall be assumed that no such change has occurred where a transfer form in respect of the Share is presented for registration having been stamped at a reduced rate of stamp duty by virtue of the transferor or transferee claiming to be entitled to such reduced rate as a result of the transfer being one where no beneficial interest passes.
- 51.3 The Directors shall cause a notation to be made in the Register against the name of any Shareholder or Shareholders in respect of whom a restriction notice shall have been served indicating the number of Shares specified in such restriction notice and shall cause such notation to be deleted upon cancellation or cessation of such restriction notice.
- 51.4 Any determination of the Directors and any notice served by them pursuant to the provisions of this clause shall be conclusive as against the Shareholder or Shareholders of any Share and the validity of any notice served by the Directors in pursuance of this clause shall not be questioned by any person.
- 51.5 For the purpose of this Instrument of Incorporation the expression “Specified Event” in relation to any Share shall mean the failure by the Shareholder thereof or any of the Shareholders thereof to comply, to the satisfaction of the Directors, with all or any of the terms of clause 10 in respect of any notice or notices given to the Shareholder or any of the Shareholders thereunder.

52. **Time for objection to voting**

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 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 chairperson of the meeting whose decision shall be final and conclusive.

53. **Appointment of proxy**

Every Shareholder entitled to attend and vote at a general meeting may appoint a proxy to attend, speak and vote on his behalf. The instrument appointing a proxy shall be in writing in any usual form or in any other form which the Directors may approve and shall be executed by or on behalf of the Shareholder. The signature on such instrument need not be witnessed.

A body corporate may execute a form of proxy under Seal or under the hand of a duly authorised officer thereof. A proxy need not be a Shareholder.

54. **Bodies corporate acting by representatives at meetings**

Any body corporate which is a Shareholder may by resolution of its Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the ICAV or of any Share Class of Shareholders 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.

55. **Deposit of proxy instruments**

The instrument appointing a proxy and any authority under which it is executed or a copy, certified by a notary or in some other way approved by the Directors, shall be deposited at the Office or at the option of the Shareholder at such other place or places (if any) and in such manner as may be specified for that purpose in or by way of note to the notice convening the meeting or adjourned meeting at such time and in such manner as may be determined by the Directors before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used, and in default shall not be treated as valid. Provided that an instrument of proxy relating to more than one (1) meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not require to be delivered again for the purposes of any subsequent meeting to which it relates.

56. **Electronic proxy**

Notwithstanding anything contained in this Instrument of Incorporation, in relation to any Shares, the Directors may from time to time permit appointments of proxies to be made by electronic means (including without limitation by means of Electronic Communication generated and sent by Shareholders to the ICAV or its agent via a website for this purpose using identification numbers communicated by or on behalf of the ICAV to each Shareholder) in such manner or form and subject to such terms, conditions or restrictions as the Directors may determine or approve from time to time in their absolute discretion. Subject as aforesaid, the ICAV and its Directors, Secretary or officers shall not be compelled to accept or receive any instrument appointing a proxy in accordance with this clause until such time as the Directors shall have advised (pursuant to any terms and conditions of Electronic Communication or otherwise) the Shareholder in writing of the manner, form and restrictions (if any) concerning how such appointment may be made. The Directors may prescribe the method of determining the time at which any such appointment of a proxy is to be treated as received by the ICAV. The Directors may treat any such appointment which purports to be or is expressed to be sent on behalf of a Shareholder as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that Shareholder.

For the purposes of this clause 56, the place to which the appointment of proxy should be delivered by the Shareholder shall be such number or address (including any number or address used for the purpose of communication by way of electronic mail or other Electronic Communication) of the ICAV as is notified by the Directors to the Shareholders whether by way of note to the notice convening the meeting or otherwise.

57. **Effect of proxy instruments**

Deposit of an instrument of proxy in respect of a meeting or adjourned meeting shall not preclude a Shareholder from attending and voting at the meeting or at any adjournment thereof. The instrument appointing a proxy shall be valid, unless the contrary is stated therein, as well for any adjournment of the meeting as for the meeting to which it relates.

58. **Effect of revocation of proxy or of authorisation**

58.1 A vote given or poll demanded in accordance with the terms of an instrument of proxy or a resolution authorising a representative to act on behalf of a body corporate 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 of the resolution authorising the representative to act or transfer of the Share in respect of which the instrument of proxy or the authorisation of the representative to act was given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the ICAV at the Office at least one (1) hour before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used or at which the representative acts.

58.2 The Directors may send, at the expense of the ICAV, by post or otherwise, to the Shareholders instruments of proxy (with or without stamped envelopes for their return) for use at any general meeting or at any Share Class meeting, either in blank or nominating any one (1) or more of the Directors or any other persons in the alternative. If for the purpose of any meeting, invitations to appoint as proxy a person or one (1) 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.

59. **Share Class meetings**

Save as otherwise provided in this Instrument of Incorporation, the provisions of clauses 34 to 59 shall apply mutatis mutandis to Share Class meetings and meetings of Shareholders of Shares in a Fund as they apply to general meetings. with the proviso that if only one (1) Shareholder is entitled to attend and vote at a Share Class meeting or at a meetings of Shareholders of Shares in a Fund one (1) person entitled to vote upon the business to be transacted, whether as a Shareholder or a proxy for a Shareholder or a duly authorised representative of a corporate Shareholder, shall be a quorum.

DIRECTORS

60. **Number of Directors**

The number of Directors shall not be less than two (2).

61. **Share qualification**

A Director shall not be required to hold any Shares in the ICAV.

62. **Appointment of Directors by the board**

The Directors shall have power at any time and from time to time, with the prior approval of the Central Bank and subject to such requirements as may be imposed by the Central Bank

under the ICAV Act or any other enactment, to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

63. **Appointment of Directors at a general meeting**

At a general meeting a motion for the appointment of two (2) or more persons as Directors by a single resolution shall not be made unless a resolution that it shall be so made has been first agreed to by the meeting without any vote being given against it.

64. **Ordinary remuneration of Directors**

Unless and until otherwise determined from time to time by the ICAV in general meeting, the ordinary remuneration of each Director shall be determined from time to time by resolution of the Directors.

65. **Special remuneration of Directors**

Any Director who holds any executive office (including for this purpose the office of chairperson or deputy chairperson) or who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise as the Directors may determine.

No Director shall receive payment by way of compensation for loss of office or as consideration for retirement from office unless such payment is made in accordance with the requirements of the ICAV Act.

66. **Expenses of Directors**

The Directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees established by the Directors or general meetings or separate meetings of the Shareholders of any Share Class of the ICAV or otherwise in connection with the discharge of their duties.

67. **Alternate Directors**

67.1 Any Director may, with the prior approval of the Central Bank and subject to such requirements as may be imposed by the Central Bank under the ICAV Act or any other enactment, appoint by writing under his hand any person (including another Director) to be his alternate. Any such authority may be sent by delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Directors and may bear a printed or facsimile signature of the Director giving such authority.

67.2 An alternate Director shall be entitled to receive notices of all meetings of the Directors and of all meetings of committees established by the Directors of which his appointor is a member, to attend and vote at any such meeting at which the Director appointing him is not personally present and in the absence of his appointor to exercise all the powers, rights, duties and authorities of his appointor as a Director (other than the right to appoint an alternate hereunder).

67.3 Save as otherwise provided in this Instrument of Incorporation, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director

appointing him. The remuneration of any such alternate Director shall be payable out of the remuneration paid to the Director appointing him and shall consist of such portion of the remuneration of the Director as shall be agreed between the alternate and the Director appointing him.

- 67.4 A Director may revoke at any time the appointment of any alternate appointed by him. If a Director shall die or cease to hold the office of Director the appointment of his alternate shall thereupon cease and determine but if a Director retires but is reappointed or deemed to have been re-appointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to his retirement shall continue after his reappointment.
- 67.5 Any appointment or revocation by a Director under this clause 67 shall be effected by notice in writing given under his hand to the Secretary or deposited at the Office or in any other manner approved by the Directors.

POWERS OF DIRECTORS

68. Directors' powers

- 68.1 Subject to the provisions of the ICAV Act, the UCITS Regulations and this Instrument of Incorporation and to any directions by the Shareholders given by ordinary resolution, not being inconsistent with this Instrument of Incorporation, the UCITS Regulations or with the ICAV Act, the business of the ICAV shall be managed by the Directors who may do all such acts and things and exercise all the powers of the ICAV as are not by the ICAV Act, the UCITS Regulations or by this Instrument of Incorporation required to be done or exercised by the ICAV in general meeting. Without prejudice to the generality of the foregoing, the Directors may exercise all powers of the ICAV in relation to the Investment of the Assets in accordance with clause 21 of Schedule 1.
- 68.2 No alteration of the Instrument of Incorporation and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this clause shall not be limited by any special power given to the Directors by this Instrument of Incorporation and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

69. Power to delegate to a committee

Without prejudice to the generality of clause 68, the Directors may delegate any of their powers to any committee whether or not consisting of Directors. Any such delegation may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked. Subject to any such conditions, the proceedings of a committee with two (2) or more members shall be governed by the provisions of this Instrument of Incorporation regulating the proceedings of Directors so far as they are capable of applying.

70. Appointment of attorneys / agents / delegates / Depositary

- 70.1 The Directors, from time to time and at any time by power of attorney under Seal or otherwise, may appoint any company, firm or person or fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or agent or delegate of the ICAV for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this

Instrument of Incorporation) and for such period and subject to such conditions as they may think fit. Any such appointment may contain such provisions for the protection of persons dealing with any such appointee as the Directors may think fit, may contain indemnities in favour of any appointee and may authorise any such appointee to sub-delegate all or any of the powers, authorities and discretion vested in him.

- 70.2 Without prejudice to the generality of the foregoing, the Directors may, with the prior approval of the Central Bank appoint a Manager and in accordance with the requirements of the Central Bank appoint, or procure that the Manager appoints, an Investment Manager and/or Investment adviser, administrator and/or other similar entity to manage and/or advise on the Investment of the Assets and/or the administration of the ICAV or a prime broker on such terms and conditions as the Directors may deem fit. The Manager shall have responsibility for the matters described in the management agreement between the ICAV and the Manager and relating to the appointment and duties of the Manager and in accordance with and as directed by the UCITS Regulations, where applicable. The remuneration and expenses of such appointees may be charged to the ICAV, including to the capital thereof as may be disclosed in the Prospectus. In the event that the Manager shall resign or its appointment shall otherwise terminate the Directors shall use their best endeavours to procure that some other person act as Manager in accordance with the requirements of the Central Bank.
- 70.3 Notwithstanding the generality of clause 70.1 the Directors may appoint an agent for the purposes of exercising their power to allot relevant securities in accordance with the provisions of clause 7.
- 70.4 The Directors shall appoint a Depositary to all of the Assets (including cash) of the ICAV in accordance with the provisions of clauses 22 to 24 of Schedule 1. The Depositary shall be responsible for the safekeeping of the Assets.
- 70.5 Any dealings (including, but not limited to, dealing in Shares of the ICAV) by any person referred to in this clause 70 will be subject to such rules and conditions as may be laid down by the Central Bank from time to time.

71. **Borrowing powers**

Subject to the ICAV Act and the UCITS Regulations, the Directors may exercise all the powers of the ICAV to borrow or raise money (including employing leverage and borrowing for the purposes of repurchasing Shares) and to mortgage, pledge, charge or transfer its undertaking, property and Assets (both present and future), and uncalled capital or any part thereof and to issue debentures, debenture stock and other securities, whether outright or as collateral security for any debt, liability or obligation of the ICAV provided that all such borrowings and any such transfer of Assets shall be within the limits and conditions laid down by the Central Bank and the UCITS Regulations.

APPOINTMENT AND RETIREMENT OF DIRECTORS

72. **Eligibility for appointment**

To be eligible for appointment as a Director at a general meeting of the ICAV, a person must be recommended by the Directors or, not less than six (6) nor more than thirty (30) Clear Days before the date appointed for the meeting, notice executed by a Shareholder qualified to vote at the meeting must have been given to the ICAV of the intention to propose that person for appointment stating the particulars which would be required, if he were so appointed, to be

included in the ICAV's Register of Directors together with notice executed by that person of his willingness to be appointed.

73. **No retirement on account of age**

No Director will be required to retire on account of age.

74. **Appointment of additional Directors**

74.1 Subject as aforesaid, the ICAV by ordinary resolution may appoint a person to be a Director either to fill a vacancy or as an additional Director.

74.2 The continuing Directors may act notwithstanding any vacancy in their body, provided that if the number of the Directors is reduced below two (2), the remaining Director shall appoint forthwith an additional Director or additional Directors to make up a quorum or shall convene a general meeting of the ICAV for the purpose of making such appointment or appointments. If, in such circumstances, there be no Director or Directors able or willing to act then any two (2) Shareholders may summon a general meeting for the purpose of appointing Directors. Any additional Director so appointed shall not be required to retire at any subsequent annual general meeting of the ICAV.

DISQUALIFICATION AND REMOVAL OF DIRECTORS

75. **Disqualification of Directors**

75.1 The office of a Director shall be vacated ipso facto if:

- (A) he ceases to be a Director by virtue of, or becomes prohibited by law from being a Director by reason of an order made under the provisions of any law or enactment;
- (B) he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (C) in the opinion of a majority of his co-Directors, he becomes incapable by reason of mental disorder of discharging his duties as a Director;
- (D) he resigns his office by notice in writing to the ICAV signed by him and delivered to the Office;
- (E) he is convicted of an indictable offence, unless the Directors otherwise determine;
- (F) he shall have been absent for more than six (6) consecutive months without permission of the Directors from meetings of the Directors held during that period and his alternate Director (if any) shall not have attended any such meeting in his place during such period, and the Directors pass a resolution that by reason of such absence he has vacated office;
- (G) he is required in writing by a majority of his co-Directors to resign;
- (H) the Central Bank requires him to resign;

- (I) if he is removed from office by an ordinary resolution in accordance with section 62 of the ICAV Act; or
- (J) if he becomes of unsound mind.

75.2 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.

DIRECTORS' INTERESTS

76. Directors' interests

76.1 Subject to the provisions of the ICAV 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:

- (A) may be a party to, or otherwise interested in, any transaction or arrangement with the ICAV or any subsidiary or associated company thereof or in which the ICAV or any subsidiary or associated company thereof is otherwise interested;
- (B) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with or otherwise interested in, any body corporate promoted by the ICAV or in which the ICAV or any subsidiary or associated company thereof is otherwise interested; and
- (C) 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.

76.2 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.

76.3 A copy of every declaration made and notice given under this clause shall be entered within three (3) days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or Shareholder at the Office 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.

76.4 For the purposes of this clause:

- (A) 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; and
- (B) 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.

77. Restriction on Directors' voting

77.1 Save as otherwise provided by this Instrument of Incorporation, a Director shall not vote at a meeting of the Directors or any committee established by the Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material (other than an interest arising by virtue of his interest in Shares or debentures or other securities or otherwise in or through the ICAV) or a duty which conflicts or may conflict with the interests of the ICAV. 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.

77.2 A Director shall be entitled to vote (and be counted in the quorum) in respect of any resolutions concerning any of the following matters, namely:

- (A) the giving of any security, guarantee or indemnity to him in respect of money lent by him to the ICAV or any of its subsidiary or associated companies or obligations incurred by him at the request of or for the benefit of the ICAV or any of its subsidiary or associated companies;
- (B) the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the ICAV or any of its subsidiary or associated companies for which he himself has assumed responsibility in whole or in part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
- (C) any proposal concerning any offer of Shares or debentures or other securities of or by the ICAV or any of its subsidiary or associated companies for subscription, purchase or exchange in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; or
- (D) any proposal concerning any other ICAV or company in which he is interested, directly or indirectly and whether as an officer, Shareholder, employee or otherwise howsoever.

77.3 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two (2) or more Directors to offices or employments with the ICAV or any company in which the ICAV is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under clause 77.2(D)) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.

77.4 If a question arises at a meeting of Directors or of any committee established by the 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 chairperson of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive. If the matter relates to the chairperson, it shall be decided on the basis of a majority decision of the Directors present at the meeting.

- 77.5 The ICAV by ordinary resolution may suspend or relax the provisions of this clause to any extent or ratify any transaction not duly authorised by reason of a contravention of this clause.

PROCEEDINGS OF DIRECTORS

78. Convening and regulation of Directors' meetings

- 78.1 Subject to the provisions of this Instrument of Incorporation, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Any Director may waive notice of any meeting and any such waiver may be retrospective.

- 78.2 Notice of a meeting of the Directors shall be deemed to be duly given to a Director if it is given to him personally or by word of mouth or sent in writing by delivery, post, telefax, electronic mail or any other means of communication approved by the Directors to him at his last known address or any other address given by him to the ICAV for this purpose.

79. Quorum for Directors' meetings

- 79.1 The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two (2). A person who holds office only as an alternate Director shall, if his appointer is not present, be counted in the quorum but notwithstanding that such person may act as alternate Director for more than one (1) Director he shall not count as more than one (1) for the purposes of determining whether a quorum is present.

- 79.2 The continuing Directors or a sole Director may act notwithstanding any vacancies in their number but if the number of Directors is less than the number fixed as the quorum, they may act only for the purpose of filling vacancies or for calling a general meeting.

80. Voting at Directors' meetings

- 80.1 Questions arising at any meeting of Directors shall be decided by a majority of votes. Where there is an equality of votes, the chairperson of the meeting shall have a casting vote.

- 80.2 Subject as hereinafter provided, each Director present and voting shall have one (1) vote and in addition to his own vote shall be entitled to one (1) vote in respect of each other Director not present at the meeting who shall have authorised him in respect of such meeting to vote for such other Director in his absence. Any such authority may relate generally to all meetings of the Directors or to any specified meeting or meetings and must be in writing and may be sent by delivery, post, facsimile, electronic mail or any other means of communication approved by the Directors and may bear a printed, facsimile or electronic signature of the Director giving such authority. The authority must be delivered to the Secretary for filing prior to or must be produced at the first meeting at which a vote is to be cast pursuant thereto provided that no Director shall

be entitled to any vote at a meeting on behalf of another Director pursuant to this clause 80.2 if the other Director shall have appointed an alternate Director and that alternate Director is present at the meeting at which the Director proposes to vote pursuant to this clause 80.2.

81. Telecommunication meetings

All or any of the Directors (or any alternate Directors), or of the members of a committee of the Directors (a "Committee") can take part in a meeting of the Directors, or of a Committee as the case may be, by the use of conference telephone, video conferencing or other telecommunications equipment designed to allow all persons participating to hear each other speak (an "Electronic Meeting"). A person taking part in this way will be counted as being present at the meeting, and an Electronic Meeting will be considered to be a meeting of Directors, or of a Committee as the case may be. The provisions of this Instrument of Incorporation, insofar as they relate to the summoning of meetings of Directors or of Committees, the appointment and powers of a chairperson, the transaction of business, alternated quorum, voting, adjournment and the keeping of minutes, will apply to an Electronic Meeting as if it were a meeting of Directors, or of a Committee as the case may be, at which all those taking part were in the physical presence of each other.

82. Chairperson of the board of Directors

Subject to any appointment to the office of chairperson made pursuant to this Instrument of Incorporation, the Directors may elect a chairperson of their meetings and determine the period for which he/she is to hold office, but if no such chairperson is elected or if at any meeting the chairperson is unwilling to act or is not present within five (5) minutes after the time appointed for holding the same the Directors present may choose one of their number to be chairperson of the meeting.

83. Validity of acts of Directors

All acts done by any meeting of the Directors or of a committee established by the Directors or by any person acting as a Director, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified from holding office or had vacated office, shall 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.

84. Directors' resolutions or other documents in writing

A resolution or other document in writing, whether in manuscript, electronic or other form, signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee established by the Directors shall be as valid as if it had been passed at a meeting of Directors or (as the case may be) a committee established by the Directors duly convened and held and may consist of several documents in the like form each signed by one (1) or more Directors or by one (1) or more persons (which may include Directors) being the members of the committee established by the Directors, and such resolution or other document or documents when duly signed may be delivered or transmitted (unless the Directors or the members of the committee as the case may be shall otherwise determine either generally or in any specific case) by facsimile transmission or some other similar means of transmitting the contents of documents. A resolution or other documents signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

THE SECRETARY

85. Appointment of Secretary

The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them. Anything required or authorised by the ICAV Act or this Instrument of Incorporation to be done by, or given to, the Secretary may be done by or given to any assistant or acting Secretary readily available and capable of acting by or to any officer of the ICAV authorised generally or specially in that behalf by the Directors, if the office is vacant or there is for any other reason no Secretary readily available and capable of acting PROVIDED THAT any provision of the ICAV Act or this Instrument of Incorporation requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as a Director and as, or in the place of, the Secretary.

EXECUTION OF DOCUMENTS

86. Binding contracts

86.1 Subject to clause 88, contracts on behalf of the ICAV may be made as follows:

- (A) a contract which, if made between natural persons, would be by law required to be in writing and to be under Seal, may be made on behalf of the ICAV in writing under the Seal of the ICAV in accordance with this Instrument of Incorporation;
- (B) a contract which, if made between natural persons, would be by law required to be in writing, signed by the parties, may be made on behalf of the ICAV in writing, signed by any person acting under its authority, express or implied;
- (C) a contract which, if made between natural persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the ICAV by any person acting under its authority, express or implied.

86.2 A contract made according to the requirements of this Instrument of Incorporation shall bind the ICAV and its successors and all other parties to it and it may be varied or discharged in the same manner in which it is authorised to be made by this Instrument of Incorporation.

87. Common Seal

The ICAV may but is not required to have a Seal. The Directors shall ensure that the Seal (including any official securities Seal kept pursuant to the ICAV Act) shall be used only by the authority of the Directors or of a committee authorised by the Directors. A Seal must have the name of the ICAV engraved in legible characters on it.

88. Use of the Seal

88.1 A document has the same effect as if executed under the Seal of the ICAV if:

- (A) it is expressed (in whatever form of words) to be executed by the ICAV and it is signed on behalf of the ICAV:
 - (1) by two (2) authorised signatories, or
 - (2) by a director of the ICAV in the presence of a witness who attests the signature,
- (B) Each of the following is an authorised signatory for the purposes of a:
 - (1) a Director of the ICAV;
 - (2) the Secretary (or any joint Secretary) of the ICAV; or
 - (3) any person authorised by the Directors of the ICAV in accordance with this Instrument of Incorporation.

89. **Official Seal for Share certificates**

Where the ICAV has a Seal it may have, for use for sealing Shares issued by the ICAV and for sealing documents creating or evidencing Shares so issued, an official Seal which is a facsimile of its Seal with the addition on its face of the word "securities". The official Seal when duly affixed to a document has the same effect as the Seal.

90. **Execution of negotiable instruments**

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the ICAV shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Directors shall determine from time to time.

DIVIDENDS AND RESERVES

91. **Declaration of dividends**

91.1 The Directors at such times as they think fit may declare such dividends on any Share Class (or series thereof) as appear to the Directors to be justified by the profits of the relevant Fund being:

- (A) the accumulated net revenue (consisting of all revenue accrued including interest and dividends); and/or
- (B) realised gains and unrealised capital gains on the disposal/valuation of Investments and other Funds less realised and unrealised accumulated capital losses and expenses of the relevant Fund; and/or
- (C) realised gains on the disposal/valuation of Investments and other Funds net of realised and unrealised accumulated capital losses and expenses of the relevant Fund; and/or
- (D) net income and realised gains on the disposal/valuation of Investments and other Funds net of realised and unrealised accumulated capital losses and expenses of the relevant Fund; and/or

- (E) net income and realised and unrealised gains on the disposal/valuation of Investments and other Funds net of realised and unrealised accumulated capital losses and expenses of the relevant Fund; and/or
 - (F) the capital of the relevant Fund.
- 91.2 The Directors may, and with the approval of the relevant Shareholder, satisfy any dividend due to Shareholders of the Shares in whole or in part by distributing to them in specie any of the Assets of the relevant Fund, and in particular any Investments to which the relevant Fund is entitled. A Shareholder may require the Directors instead of transferring any Assets in specie to him, to arrange for a sale of the Assets and for payment to the Shareholder of the net proceeds of same.
- 91.3 Shares of any Share Class may at the discretion of the Directors be issued on the basis that any dividends declared in respect of those Shares will be reinvested in the subscription of further Shares of that Share Class. In addition, Shareholders may either when applying for Shares or subsequently, request the Directors or their agents in writing to reinvest all dividends to which they are entitled in the subscription of further Shares; every such request will remain effective until countermanded in writing or, if earlier, the person making the request ceases to be a Shareholder. Further Shares will be issued on the date the dividend is declared or, if that is not a Dealing Day, for subscription for Shares on the next following Dealing Day at a price calculated in the same way as for other issues of Shares of the same Share Class on that Dealing Day but without incurring any initial charge.
- 91.4 Shares of any Share Class may at the discretion of the Directors be issued on the basis that any dividends declared in respect of those Shares will be reinvested and form part of the Assets of the relevant Fund and will be applied when calculating the Subscription Price and the Redemption Price as part of the proportion of the relevant Fund which is attributable to the Shareholders of that Share Class.
- 91.5 Shares of any Share Class may at the discretion of the Directors be issued on the basis that no dividends will be declared in respect of those Shares and that any profits available for distribution will form part of the Assets of the relevant Fund and will be applied when calculating the Subscription Price and the Redemption Price as part of the proportion of the relevant Fund which is attributable to the Shareholders of that Share Class.
- 91.6 Shares of any Share Class in a Fund may at the discretion of the Directors be issued on the condition that any dividends declared in respect of those assets' Shares will be paid by the ICAV into an account in the name of the Depositary for the account of the Shareholders of those Shares (the "Reinvestment Account"). The amount standing to the credit of the Reinvestment Account shall not be an asset of the relevant Fund or the ICAV. The amount standing to the credit of the Reinvestment Account will be immediately transferred from such account to the account of the relevant Fund. It is anticipated that the Net Asset Value per Share will not change as a result of this reinvestment process because the income will be paid to the external account and reinvested back into the Assets of the relevant Fund on the same day and between two (2) pricing points. However, the Directors reserve the right to issue additional Shares.

92. **Eligibility for dividends**

If any Share is issued on terms providing that it shall rank for dividend as from or after a particular date or to a particular extent, such Share shall rank for dividend accordingly.

93. **Deduction from dividend**

93.1 The Directors may deduct from any dividend or other monies payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the ICAV in relation to the Shares of the ICAV.

93.2 Where the ICAV is required to pay any taxation to the Irish tax authorities as a consequence of making any dividend payment to a Shareholder the Directors may deduct from the payment to be made to the relevant Shareholder(s) who is or is deemed to be a Irish Taxable Person or is acting on behalf of such person, the Directors may deduct from the payment an amount equal to the taxation attributable to the relevant payment(s) and pay such amount to the Irish taxation authorities.

94. **Unclaimed dividends**

All unclaimed dividends on Shares may be invested or otherwise made use of by the Directors for the benefit of the relevant Fund until claimed. No dividend or other monies payable on or in respect of a Share shall bear interest against the ICAV. The payment by the Directors of any unclaimed dividend or other monies payable on or in respect of a Share into a separate account shall not constitute the ICAV a trustee in respect thereof and any dividend unclaimed after a period of six (6) years from the date of declaration of such dividend shall be forfeited and shall revert to the relevant Fund.

95. **Currency of dividend**

Any dividend or other monies payable on or in respect of a Share shall be expressed and payment shall be made in the currency in which the relevant Share Class is designated or in such other currency as the Directors may determine either generally or in relation to a particular Share Class or in any specific case.

96. **Payment of dividend**

Any dividend or other monies payable on or in respect of a Share may be paid by electronic transfer to the account nominated by the Shareholder or person entitled thereto, and in the case of joint Shareholders to that one (1) whose name stands first on the Register in respect of their joint holding or may, if required, be paid by cheque or warrant sent through the post to the registered address of the Shareholder or the person entitled thereto. Every such payment by cheque or warrant shall be made payable to the order of the person to whom it is sent, and payment of the cheque or warrant shall be a good discharge to the ICAV and, in the case of payment by telegraphic transfer, every such payment shall be a good discharge to the ICAV. Every such transfer or, where applicable, cheque or warrant shall be sent or, as the case may be, made at the risk and cost of the person entitled to the money represented thereby or, as the case may be, payment remitted.

97. **Joint Shareholders**

If several persons are registered as joint Shareholders of any Share, any one (1) of them may give effectual receipts for any dividend or other monies payable on or in respect of the Share.

ACCOUNTS

98. Accounts

- 98.1 The Directors shall cause adequate accounting records to be kept that are sufficient to:
- (A) record and explain the transactions of the ICAV;
 - (B) enable at any time the assets, liabilities, financial position and profit or loss of the ICAV to be determined with reasonable accuracy;
 - (C) enable the Directors to ensure that any balance sheet, profit and loss account or income and expenditure account of the ICAV complies with the requirements of the ICAV Act; and
 - (D) enable the accounts of the ICAV to be readily and properly audited.
- 98.2 The accounting records to be kept shall contain:
- (A) entries from day to day of all sums of money received and expended by the ICAV and the matters in respect of which the receipt and expenditure takes place;
 - (B) a record of the Assets and liabilities of the ICAV; and
 - (C) a record of the services provided by the ICAV and the invoices related to them.
- 98.3 In accordance with the provisions of the ICAV Act, adequate accounting records shall be deemed to be kept if they comply with the requirements of the ICAV Act and facilitate the preparation of accounts which show the Assets and liabilities of the ICAV.
- 98.4 The accounting records shall be kept at the Office or, subject to the provisions of the ICAV Act, at such other place as the Directors think fit and shall be open at all reasonable times to the inspection of the Directors and such other persons as specifically prescribed in the ICAV Act. The accounting records shall be kept in written form or so as to enable the accounting records to be readily convertible into written form in an official language of the State.
- 98.5 In accordance with the requirements of the ICAV Act, the Directors shall cause to be prepared accounts for each financial year, which shall include a balance sheet or statement of Assets and liabilities, income and expenditure account for the financial year and such other information required by the ICAV Act. The accounts may be prepared for the ICAV and the Funds and/or separate accounts (with separate year end dates) may, at the Directors discretion, be prepared and presented in respect of a Fund or Funds.
- 98.6 A copy of the accounts together with a copy of the Directors' report and Auditors' report for each financial year shall be made available to every person entitled under the provisions of the ICAV Act and the UCITS Regulations to receive them.
- 98.7 The ICAV shall provide the Central Bank with all reports and information to which it is entitled under the ICAV Act and UCITS Regulations.

98.8 Auditors shall be appointed and their duties regulated in accordance with the ICAV Act.

NOTICES

99. Notices in writing

Any notice to be given, served or delivered pursuant to this Instrument of Incorporation shall be in writing.

100. Service of notices

100.1 A notice or document (including a Share certificate (if issued)) to be given, served or delivered in pursuance of this Instrument of Incorporation may be given to, served on or delivered to any Shareholder by the ICAV:

- (A) by handing the same to him or his authorised agent;
- (B) by leaving the same at his registered address;
- (C) by sending the same by post in a pre-paid cover addressed to him at his registered address;
- (D) where permitted by law, by transmitting the same by facsimile or otherwise electronically to the electronic mail address on record for a Shareholder;
- (E) by sending it electronically to the address previously identified to the ICAV or by posting such notice or document on a website which is duly notified to the Shareholders by post or by facsimile or otherwise electronically to an address previously identified to the ICAV; or
- (F) by such other method as may be agreed between the ICAV and the Shareholders from time to time.

100.2 Where a notice or document is given, served or delivered pursuant to clauses 100.1(A) or 100.1(B), the giving, service or delivery thereof shall be deemed to have been effected at the time the same was handed to the Shareholder or his authorised agent, or left at his registered address (as the case may be).

100.3 Where a notice or document is given, served or delivered pursuant to clause 100.1(C), the giving, service or delivery thereof shall be deemed to have been effected at the expiration of twenty-four (24) hours after the cover containing it was posted. In proving service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.

100.4 Where a notice or document is given, served or delivered pursuant to clause 100.1(D), the giving, service or delivery thereof shall be deemed to have been effected at the time of transmission provided in the case of notice sent by facsimile, the correct number is received on the transmission report, and in the case of a notice or document sent by electronic mail, when it enters the information system applicable to the electronic mail and address, and in the case of posting such notice or document on a website, when it is published on the website. In proving such service or delivery it shall be sufficient to prove, if sent by facsimile that it was properly addressed and sent to the correct number or record, and if sent by electronic mail that such email entered an

information system outside the Control of the ICAV, and in the case of posting on a website, that such notice or document was posted on the website.

- 100.5 Where a notice or document is given, served or delivered pursuant to clause 100.1(E), the giving, service or delivery shall be deemed to have been effected at the time agreed between the ICAV and the Shareholders from time to time, and in the absence of such agreement, at such time as shall seem reasonable to the Directors. In proving such service or delivery it shall be sufficient to prove that the notice or document was delivered as agreed.
- 100.6 Without prejudice to the provisions of clauses 100.1(A) and 100.1(B), if at any time by reason of the suspension or curtailment of postal services within the State, the ICAV is unable effectively to convene a general meeting by notice sent through the post, a general meeting may be convened by a notice advertised on the same day in at least one (1) leading national daily newspaper published in the State and such notice shall be deemed to have been duly served on all Shareholders entitled thereto at noon on the day on which the said advertisement or advertisements shall appear. In any such case the ICAV shall send confirmatory copies of the notice through the post to those Shareholders whose registered addresses are outside the State (if or to the extent that in the opinion of the Directors it is practical so to do) or are in areas of the State unaffected by such suspension or curtailment of postal services. If at least ninety-six (96) hours prior to the time appointed for the holding of the meeting the posting of notices to Shareholders has become practical in the opinion of the Directors, the Directors shall send forthwith confirmatory copies of the notice by post to such Shareholders. The accidental omission to give any such confirmatory copy of a notice of a meeting to, or the non-receipt of any such confirmatory copy by, any person entitled to receive the same shall not invalidate the proceedings at the meeting.
- 100.7 Every legal personal representative, committee, receiver, curator bonis or other legal curator, assignee in bankruptcy or liquidator of a Shareholder shall be bound by a notice given as aforesaid if sent to the last registered address of such Shareholder, notwithstanding that the ICAV may have notice of the death, lunacy, bankruptcy, liquidation or disability of such Shareholder.
- 100.8 Without prejudice to the provisions of clauses 100.1(A) and 100.1(B), if at any time by reason of the suspension or curtailment of postal services within the State, the ICAV is unable effectively to convene a general meeting by notice sent through the post, the notice of the general meeting shall be sent in accordance with clauses 100.4 and/or 100.5, as applicable. The non-receipt of any such notice by any person entitled to receive the same shall not invalidate the proceedings at the meeting.
- 100.9 Notwithstanding anything contained in this clause 100, the ICAV shall not be obliged to take account of or make any investigations as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction or other area other than the State.

101. **Service of notice on joint Shareholders**

A notice may be given by the ICAV to the joint Shareholders of a Share by giving the notice to the joint Shareholder whose name stands first in the Register in respect of the Share and notice so given shall be sufficient notice to all the joint Shareholders.

102. **Service of notice on transfer or transmission of Shares**

102.1 Every person who becomes entitled to a Share shall, before his name is entered in the Register in respect of the Share, be bound by any notice in respect of that Share which has been duly given to a person from whom he derives his title provided that the provisions of this clause 102.1 shall not apply to any notice served under clause 10 unless, under the provisions of clause 10, it is a notice which continues to have effect notwithstanding the registration of a transfer of the Shares to which it relates.

102.2 Without prejudice to the provisions of this Instrument of Incorporation allowing a meeting to be convened by newspaper advertisement, a notice may be given by the ICAV to the persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder by sending or delivering it, in any manner authorised by this Instrument of Incorporation for the giving of notice to a Shareholder, addressed to them at the address, if any, supplied by them for that purpose. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

103. **Signature to notices**

The signature to any notice to be given by the ICAV may be written or printed.

104. **Deemed receipt of notices**

A Shareholder present, either in person or by proxy, at any meeting of the ICAV or the Shareholders of any Share Class in the ICAV shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

WINDING UP

105. **Winding up following failure to appoint a successor Depositary**

If the Depositary shall have given to the ICAV notice of its desire to retire from its appointment and no successor Depositary shall have been appointed in accordance with this Instrument of Incorporation within ninety (90) days from the giving of such notice, the Depositary or the Directors may require the Secretary of the ICAV to convene an extraordinary general meeting of the Shareholders for the purpose of considering an ordinary resolution that the ICAV be wound up. If the Shareholders do not pass an ordinary resolution to wind up the ICAV and no new Depositary has been appointed within thirty six (36) days of such meeting, the ICAV shall on not less than two (2) Business Days' notice from the Depositary or Directors repurchase the Shares of the ICAV (other than the Subscriber Shares) and apply for the strike off of the ICAV from the register of ICAVs maintained by the Central Bank or liquidated and apply to the Central Bank for revocation of the authorisation of the ICAV.

106. **Distribution on winding up**

106.1 Subject to the provisions of the ICAV Act, if the ICAV shall be wound up the liquidator shall apply the Assets of each Fund in such manner and order as he thinks fit in satisfaction of creditors' claims relating to that Fund.

106.2 The Assets available for distribution amongst the Shareholders shall be applied as follows:

- (A) those Assets in a Fund attributable to each Share Class (or series of a Share Class) of Share shall be distributed to the Shareholders of Shares in the relevant Share Class (or series of a Share Class) in the proportion that the number of Shares held by each Shareholder bears to the total number of Shares relating to each such Share Class (or series of a Share Class) of Shares in issue as at the date of commencement to wind up;
- (B) any balance then remaining and not attributable to any of the Share Classes (or series of Share Classes) of Shares shall be apportioned pro-rata as between the Share Classes (or series of Share Classes) of Shares based on the Net Asset Value of each Share Class (or series of a Share Class) of Shares as at the date of commencement to wind up and the amount so apportioned to a Share Class (or series of a Share Class) shall be distributed to Shareholders pro-rata to the number of Shares in that Share Class (or series of a Share Class) of Shares held by them.

106.3 A Fund may be wound up pursuant to section 37 of the ICAV Act and in such event the provisions of clauses 105 and 106 shall apply mutatis mutandis in respect of that Fund.

107. **Distribution in specie**

If the ICAV shall be wound up (whether the liquidation is voluntary, under supervision or by the court) the liquidator may, with the authority of an ordinary resolution of the relevant Shareholders or with the prior written approval of all of the relevant Shareholders and any other sanction required by the ICAV Act, divide among the Shareholders of Shares of any Share Classes (or series of a Share Class) within a Fund in specie the whole or any part of the Assets of the ICAV relating to that Fund, and whether or not the Assets shall consist of property of a single kind, and may for such purposes set such value as he deems fair upon any one or more Share Class (or series of a Share Class) or Share Classes of property, and may determine how such division shall be carried out as between the Shareholders or the Shareholders of different Share Classes (or series of a Share Class) of Shares in a Fund as the case may be. The liquidator may, with the like authority, vest any part of the Assets in trustees upon such trusts for the benefit of Shareholders as the liquidator, with the like authority, shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, but so that no Shareholder shall be compelled to accept any Assets in respect of which there is a liability. A Shareholder may require the liquidator instead of transferring any Assets in specie to it, to arrange for a sale of the Assets and for payment to the Shareholder of the net proceeds of same.

108. **Strike off**

The ICAV may, in accordance with the ICAV Act and the requirements of the Central Bank, apply to the Central Bank to be struck off the register of ICAVs.

MISCELLANEOUS

109. **Minutes of meetings**

109.1 The Directors shall cause minutes to be made of the following matters, namely:

- (A) of all appointments of officers and committees made by the Directors and of their salary or remuneration;

- (B) of the names of Directors present at every meeting of the Directors and of the names of any Directors and of all other members thereof present at every meeting of any committee established by the Directors; and
- (C) of all resolutions and proceedings of all meetings of the ICAV and of the Shareholders of the ICAV, any Fund or Share Class in the ICAV and of the Directors and of committees established by the Directors to be entered in books kept for that purpose. Any such minute as aforesaid, if purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minute without any further proof. Where such minutes have been made, then, until the contrary is shown, the meeting shall be deemed to have been duly held and convened and all proceedings are the meeting to have been duly had and all appointments of Directors or liquidators shall be deemed to be valid.

110. **Inspection and secrecy**

The Directors shall determine from time to time whether and to what extent and at what times and places and under what conditions or regulations the accounts and books and records of the ICAV or any of them shall be open to the inspection of Shareholders, not being Directors, and no Shareholder (not being a Director) shall have any right of inspecting any account or book or record of the ICAV except as conferred by the ICAV Act or authorised by the Directors or by the ICAV in general meeting. No Shareholder shall be entitled to require discovery of or any information respecting any detail of the ICAV's trading, or any matter which is or may be in the nature of a trade secret, mystery of trade, or secret process which may relate to the conduct of the business of the ICAV and which in the opinion of the Directors it would be inexpedient in the interests of the Shareholders to communicate to the public.

111. **Destruction of records**

111.1 The ICAV shall be entitled to destroy all instruments of transfer which have been registered at any time after the expiration of six (6) years from the date of registration thereof, all notifications of change of address at any time after the expiration of two (2) years from the date of recording thereof and all Share certificates and dividend mandates which have been cancelled or ceased to have effect at any time after the expiration of one (1) year from the date of such cancellation or cessation. It shall be presumed conclusively in favour of the ICAV that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made and every instrument duly and properly registered and every Share certificate so destroyed was a valid and effective document duly and properly cancelled and 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:

- (A) the provision aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (B) nothing herein contained shall be construed as imposing upon the ICAV any liability in respect of the destruction of any document earlier than as aforesaid or in any other circumstances which would not attach to the ICAV in the absence of this clause 111; and

- (C) references herein to the destruction of any document include references to the disposal thereof in any manner.

112. **Untraced Shareholders**

112.1 The ICAV shall be entitled to sell at the best price reasonably obtainable any Share of a Shareholder or any Share to which a person is entitled by transmission if and provided that:

- (A) for a period of twelve years (12) no cheque or warrant sent by the ICAV through the post in a pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or the last known address given by the Shareholder or the person entitled by transmission to which cheques and warrants are to be sent has been cashed and no communication has been received by the ICAV from the Shareholder or the person entitled by transmission (provided that during such twelve (12) year period at least three (3) dividends shall have become payable in respect of such Share);
- (B) at the expiration of the said period of twelve (12) years by advertisement in a national daily newspaper published in the State and in a newspaper circulating in the area in which the address referred to in clause 112.1(A) is located, the ICAV has given notice of its intention to sell such Share; and
- (C) during the further period of three (3) months after the date of the advertisement and prior to the exercise of the power of sale the ICAV has not received any communication from the Shareholder or person entitled by transmission.

112.2 To give effect to any such sale the ICAV may appoint any person to execute as transferor an instrument of transfer of such Share and such instrument of transfer shall be as effective as if it had been executed by the Shareholder or the person entitled by the transmission to such Share. The transferee shall be entered in the Register as the Shareholder of the Share comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the Share be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

112.3 The ICAV shall account to the relevant Fund or, if the Fund is no longer in existence, to such other person as the Directors may determine for the net proceeds of such sale.

113. **Indemnity**

113.1 Subject to the provisions of and insofar as may be permitted by the ICAV Act, every Director, Secretary and other officer or servant of the ICAV and the Auditor shall be indemnified and held harmless by the ICAV against, and it shall be the duty of the Directors out of the Assets to pay, all costs, losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into, or act or thing done by him as such officer or servant or in any way in discharge of his duties, including travelling expenses, and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the ICAV and have priority as between the Shareholders over all other claims.

113.2 Subject to the provisions of the ICAV Act no Director or other officer of the ICAV shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or for joining in any receipt or other act for conformity or for any loss or expense

happening to the ICAV through the insufficiency or deficiency of title to any property acquired for or on behalf of the ICAV or for the insufficiency or deficiency of any security in or upon which any of the monies of the ICAV shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any monies, securities or effects shall be deposited or any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto.

114. **Overriding provisions**

In the event of there being any conflict between the provisions of this Instrument of Incorporation and the ICAV Act, the ICAV Act shall prevail.

115. **Schemes of reconstruction or amalgamation**

115.1 The Directors shall have the power to merge, reconstruct and/or amalgamate the ICAV or any Fund on such terms and conditions as set out in a scheme of reconstruction, amalgamation, merger or division approved by the Directors and whether or not such reconstruction, amalgamation, merger or division involves a merger with or transfer of Assets to another entity, whether body corporate or otherwise who may or not be regulated by the Central Bank and may or may not be an Irish entity, provided that the reconstruction or amalgamation is carried out in accordance with the Central Bank's requirements and the ICAV Act.

115.2 The relevant merger or scheme of reconstruction and amalgamation shall take effect upon such conditions being satisfied or upon such later date as the scheme may provide whereupon the terms of such scheme shall be binding upon all the Shareholders who shall be bound to give effect thereof and the Directors shall do all such acts and things as may be necessary for the implementation thereof.

116. **Restriction on modifications to the Instrument of Incorporation**

116.1 No alteration shall be made to this Instrument of Incorporation without the prior approval of the Central Bank and, in the case of an alteration other than to change the name of the ICAV, unless:

(A) the alteration has been approved:

(1) by ordinary resolution; or

(2) by written resolution of the Shareholders of the ICAV; or

(B) the Depositary has certified in writing that the alteration does not prejudice the interests of the Shareholders and does not relate to any such matter as may be specified by the Central Bank as one (1) in the case of which an alteration may be made only if approved by Shareholders of the ICAV.

117. **Assets and segregation of liability**

117.1 The Assets of the ICAV shall belong exclusively to the ICAV and no Shareholder shall have any interest in the Assets of the ICAV.

117.2 The Assets of each Fund shall belong exclusively to the relevant Fund and may not be used to discharge directly or indirectly the liabilities of or claims against any other sub-

fund and are not available for any such purpose. Notwithstanding any statutory provision or rule of law to the contrary any liability incurred on behalf of or attributable to any Fund shall be discharged solely out of the Assets of that Fund and neither the ICAV nor any Director, receiver, examiner, liquidator, provisional liquidator or other person shall apply nor be obliged to apply the Assets of any such Fund in satisfaction of any liability incurred on behalf of or attributable to any other Fund.

- 117.3 Any asset or sum recovered by the ICAV by any means whatsoever or wheresoever shall, after the deduction or payment of any costs of recovery, be applied to the Fund affected. In the event that Assets attributable to a Fund are taken in execution of a liability not attributable to that Fund, and in so far as such Assets or compensation in respect hereof cannot otherwise be restored to that Fund, the Directors with the consent of the Depositary, shall certify or cause to be certified, the value of the Assets lost to the Fund affected and transfer or pay from the Assets of the Fund or Funds to which the liability was attributable, in priority to all other claims against such Fund or Funds, Assets or sums sufficient to restore to the Fund affected, the value of the Assets or sums lost to it.
- 117.4 The ICAV may sue and be sued in respect of a particular Fund and may exercise the same rights of set off, if any, as between its Funds as apply at law in respect of an Irish collective asset-management vehicle and the property of a Fund is subject to orders of the Irish courts as it would have been if the Fund were a separate legal person.
- 117.5 The Assets allocated to a Fund shall be applied solely in respect of the Shares of such Fund and no Shareholder relating to such Fund shall have any claim or right to any asset allocated to any other Fund. Separate records will be maintained for each Fund.
- 117.6 Nothing in this clause 117 shall prevent the application of any enactment or rule of law which would require the application of the Assets of any Fund in discharge of some or all of the liabilities of any other Fund on the grounds of fraud or misrepresentation.

118. **Cross investment**

Subject to the provisions of section 47 of the ICAV Act and any requirements of the Central Bank, the ICAV may on behalf of a Fund acquire Shares in another Fund or any Share Class or series thereof.

SCHEDULE 1 : ISSUE OF SHARES

1. Terms and conditions of issue of Shares

- 1.1 Prior to the issue of any Share Class the Directors shall determine the rights and restrictions attaching thereto (including the redemption provisions which may vary from other Share Classes of Shares in the same Fund in accordance with the requirements of the Central Bank), the Fund to which they relate, the designated currency of the Shares and the fees and expenses to be borne by the Share Class. In accordance with the requirements of the Central Bank the decision to subscribe for any Share Class in respect of which the voting rights are restricted shall be made solely by the investor.

The Directors may in relation to a Fund create more than one Share Class or series of Shares to participate in the Fund in accordance with the requirements of and upon the prior notification to the Central Bank. The Directors may create more than one Share Class or series of Shares to participate in a Fund which may be denominated by the Directors in the same or different currencies.

Where a Share Class is denominated in a currency other than the base currency of the relevant Fund the Directors shall at the time of creation of such Share Class determine if such Share Class shall be constituted as a Hedged Currency Share Class and/or an Unhedged Currency Share Class.

Notwithstanding anything contained in this Instrument of Incorporation, the costs and gains/losses of any derivative transactions relating to a Hedged Currency Share Class shall accrue solely to the Shareholders of Shares in such Share Class and shall not form part of the Assets of the relevant Fund or constitute a liability of the relevant Fund to which the Share relates. Any derivative transaction relating to a Hedged Currency Share Class shall be valued in accordance with the provisions of Schedule 2 and shall be clearly attributable to the Hedged Currency Share Class. Notwithstanding the foregoing, no Hedged Currency Share Class shall be leveraged as a result of any derivative transaction and/or Share Class currency hedging transactions unless permitted by the Central Bank and subject to the parameters set out in the relevant Supplement.

- 1.2 The names of each Fund may be amended by the Directors, subject to the prior approval of the Central Bank and any such change of name shall not require the approval of the Shareholders in the relevant Fund.
- 1.3 Shares in relation to any Fund may be issued and designated from time to time with the prior approval of the Central Bank. Where new Shares are issued following the launch of a Fund, the names or designation of any existing Share Class may be amended by the Directors and any such amendment shall not require the approval of Shareholders in the relevant Fund.
- 1.4 Subject as hereinafter provided and subject to any regulations made or conditions imposed by the Central Bank pursuant to the ICAV Act or otherwise, the issue of Shares by the ICAV shall be subject to the receipt by the ICAV or its authorised agents of:
- (A) an application in such form as the Directors may from time to time determine to include, where appropriate, the indication of the Share Class(es) in which the applicant wishes to invest;

- (B) payment of the Subscription Charge (or equivalent) into the Assets of the relevant Fund within a reasonable time; and
 - (C) such information and declarations as the Directors may from time to time require including AML/CTF documentation as per the relevant application form.
- 1.5 Subject to the requirements of the Central Bank, subsequent subscriptions may be made in writing, by telephone, by facsimile or electronic means of communication or otherwise in accordance with the procedure to be set out in the Prospectus or the relevant Supplement.
- 1.6 Payment for Shares shall be made by the Settlement Date in such currency and at such time, place and manner and to such person, on behalf of the ICAV, as the Directors may from time to time determine and as stipulated in the relevant Supplement.
- 1.7 The ICAV may (at the option of the Directors) satisfy any application for the allotment of Shares by procuring the transfer to the applicant of fully-paid Shares, the effective date of such transfer to be the relevant Dealing Day. In any such case, references in this Instrument of Incorporation to allotting Shares shall, where appropriate, be taken as references to procuring the transfer of Shares.
- 1.8 The allotment of Shares may take place notwithstanding that the information or declarations referred to in clause 1.4(C) of this Schedule have not been received by the ICAV or its authorised agent provided that the application referred to in clause 1.4(A) of this Schedule has been received, and provided further that if the said information or declarations have not been received within one (1) month (or such other period as the Directors may determine) after the Dealing Day on which such Shares are allotted, the Directors shall be entitled to cancel the allotment and if so cancelled the relevant application monies (if any) shall be returnable to the applicant at his risk (together with such additional amount, if any, or after deducting such amount, if any, as the Directors may in their absolute discretion think fit, any such amount so deducted being retained by the ICAV for its own benefit) and until returned may be made use of by the ICAV for its own benefit.
- 1.9 If payment of amounts due in full for any Shares is not received by the relevant Settlement Date, or in the event of the non-clearance of Funds or in accordance with the procedures specified in the Prospectus or the relevant Supplement, the Directors or their delegates shall be entitled to cancel any allotment and either return the relevant monies to the applicant at his risk or to treat the relevant monies as payment in respect of an application for Shares made by the Dealing Deadline for the Dealing Day next following receipt of such monies or cleared Funds. Where an allotment of Shares is cancelled, the ICAV may charge the applicant for any resulting charges or loss incurred by the ICAV. Where subscriptions are settled late, the ICAV reserves the right to charge an applicant interest at a reasonable commercial rate on such subscriptions. In addition, the Directors have the right to sell all or part of the investors holding of Shares in the relevant Fund in order to meet such charges.
- 1.10 Applications within the meaning of clause 1.5 of this Schedule that are received by or on behalf of the ICAV on or prior to the Dealing Deadline for a Dealing Day shall, unless the Directors determine otherwise, be dealt with on that Dealing Day. Such applications as are received after the Dealing Deadline for a Dealing Day shall, (unless the Directors otherwise agree and provided they are received before the relevant Valuation Point), be deemed to have been received by the following Dealing Deadline. The Directors

may, in their absolute discretion, agree to designate additional Dealing Days and Valuation Points for the purchase of Shares relating to any Fund which will be open to all Shareholders and which will be notified in advance to all Shareholders. Applications received after the Dealing Deadline will not be accepted.

- 1.11 Applications for the issue of Shares will be irrevocable unless the Directors, or a delegate, otherwise agree.
- 1.12 The Directors may, in their absolute discretion, determine that in certain circumstances, it is detrimental for existing Shareholders to accept an application for Shares in cash or in specie, representing more than 5% of the Net Asset Value of Fund. In such case, the Directors may postpone the application and, in consultation with the relevant investor, either require such investor to stagger the proposed application over an agreed period of time or establish an account outside the structure of the ICAV in which to invest the investor's subscription monies. Such account will be used to acquire the Shares over a pre-agreed time schedule. The investor shall be liable for any transaction costs or reasonable expenses incurred in connection with the acquisition of such Shares. Any applicable Subscription Charge will be deducted from the subscription monies before the Investment of the subscription monies commences.
- 1.13 Without prejudice to the Directors' right to accept, refuse, restrict or cancel any subscription requests, the Directors may accept, refuse, restrict or cancel any subscription requests which, in the sole judgement of the Directors represent excessive trading and/or market timing or other activity which they believe harmful to the ICAV or any Fund without giving any reason.

2. **Subscription Price**

- 2.1 During the Initial Offer Period of a Share Class of a Fund, the Subscription Price per Share of the relevant Share Class shall be the price as determined by the Directors. After the Initial Offer Period, the Subscription Price shall be the Net Asset Value per Share of the relevant Share Class plus such sum as the Directors may consider represents the appropriate allowance for Duties and Charges plus a Subscription Charge, if any, at the discretion of the Directors and, at the discretion of the Directors, where there are net subscriptions, an Anti-Dilution Levy may be added to the Subscription Price to cover dealing costs and to preserve the value of the Fund with the resulting sum being rounded to the nearest three (3) decimal places or such other number of decimal places as may from time to time be determined by the Directors. Notwithstanding the foregoing, the Directors may issue any new series of Share Class in a Fund at a fixed price within an Initial Offer Period where existing shareholders in that Fund are not prejudiced and subject to complying with the requirements of the Central Bank.
- 2.2 Where Shares are issued based on the Net Asset Value per Share as outlined in the preceding clause, the Net Asset Value per Share of the relevant Share Class shall be ascertained by:
 - (A) determining that proportion of the Net Asset Value of the relevant Fund which is attributable to the relevant Share Class as at the Valuation Point for the relevant Dealing Day and deducting therefrom such sum (if any) as the Directors may consider represents the appropriate provision for the Duties and Charges which would have been incurred on the assumption that all the Investments held by the ICAV or the relevant Fund as at that Valuation Point

had been sold at that Valuation Point at prices equal to their respective values as at that Valuation Point;

- (B) where the Share Class is a Hedged Currency Share Class, adding to or deducting from (as the case may be) the sum calculated in accordance with clause 2.2(A) of this Schedule, the costs and gains \losses of any currency hedging effected in respect of that Share Class;
- (C) dividing the sum calculated in accordance with clause 2.2(A) of this Schedule by the number of Shares of the relevant Share Class in issue or deemed to be in issue in the relevant Fund at the Valuation Point for the relevant Dealing Day; and
- (D) rounding the resulting amount so determined mathematically to three (3) decimal places of the unit of the currency in which such Share is designated (unit for such purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency) or to such other number of decimal places or significant figures as the Directors may from time to time determine and/or as stipulated in the Prospectus.

2.3 For the purposes of this clause 2, Shares which have been allotted shall be deemed to be in issue from the close of business on the Dealing Day on which they are allotted and Shares which have been redeemed shall be deemed to cease to be in issue at the close of business on the Dealing Day of such redemption.

3. **Allotment of Shares for non-cash consideration**

3.1 The Directors may, subject to the provisions of the ICAV Act, in their absolute discretion allot Shares against the vesting in the Depositary on behalf of the ICAV or to its satisfaction (provided the nature of the Investments to be transferred to the relevant Fund would qualify as Investments of such Fund in accordance with the Investment objective, policies and restrictions of the Fund) of any Investments and in connection therewith the following provisions shall apply:

3.2 The number of Shares to be allotted (which will only be allotted after the Investments have been vested in the Depositary on behalf of the ICAV) shall be not more than that number which would have fallen to be issued for cash on the basis that the amount of such cash was an amount equal to the value as at the relevant Valuation Point for the relevant Dealing Day of the Investments to be vested in the Depositary on behalf of the ICAV, as determined in accordance with clause 3.4 of this Schedule.

3.3 The Directors may provide that the whole or any part of the Duties and Charges arising in connection with the vesting of the Investments in the Depositary on behalf of the ICAV shall be paid by the ICAV or by the person to whom the Shares are to be issued or partly by the ICAV and partly by such person.

3.4 The value of the Investments to be vested in the Depositary on behalf of the ICAV or to its satisfaction shall be determined by the Directors on such basis as they shall decide so long as such value does not exceed the highest amount which would be obtained if the Investments were valued in accordance with Schedule 2.

3.5 In the case of the initial issue of any Share Class, the Directors shall determine the number of Shares of the relevant Share Class to be allotted against the vesting in the Depositary on behalf of the ICAV of any Investments.

3.6 In exercising their discretion under this clause 3, the Directors shall consider whether the terms of any such allotment are such as would result in any material prejudice to existing Shareholders provided that the Depositary is satisfied that the terms of such allotment will not be such as are likely to result in any material prejudice to existing Shareholders.

4. **Preferential treatment**

Any preferential treatment which Shareholders may obtain will be disclosed in the Prospectus or the relevant Supplement. The Prospectus or the relevant Supplement shall describe how the ICAV will ensure the fair treatment of Shareholders where any Shareholder of that Fund obtains preferential treatment or the right to obtain preferential treatment. The description of such preferential treatment shall include the type of preferential treatment and, where relevant, the relevant Shareholder's legal or economic links to the ICAV.

5. **Subscription Charge**

The Directors may require any person to whom any Share Class are to be allotted to pay to the ICAV or any of its appointees or as any of them may direct, for its or their absolute use and benefit, a Subscription Charge in respect of each Share to be allotted of such amount as may be determined by the Directors, subject to a maximum amount disclosed in the Prospectus of the Subscription Price per Share of the relevant Share Class being allotted. The Directors may on any Dealing Day differentiate between applicants as to the amount of the Subscription Charge required to be paid to the ICAV, or its appointees or as they may direct and as to the amount of Subscription Charge to be levied on each Share Class.

6. **No Shares allotted when calculation of Net Asset Value Suspended**

The Directors may in their absolute discretion determine that no Shares shall be allotted or issued during any period when the determination of the Net Asset Value of the relevant Fund is suspended pursuant to clause 18 of this Schedule. The Directors will notify investors applying for Shares of such suspension at the time of application. Any application for Shares which is not withdrawn shall, subject to the provisions of this Instrument of Incorporation, be dealt with on the first Dealing Day after the suspension is lifted.

7. **Issue of fractions of Shares**

Where payments or other consideration received by or on behalf of the ICAV in respect of the issue or allotment of Shares are not an exact multiple of the Subscription Price for those Shares, a fraction of a Share may be allotted to the investor who shall be registered as the Shareholder of such a fraction provided that any holding of Shares is a multiple of 1/100 part of a Share or such other fractional amount as the Directors may determine from time to time. Rights, entitlements and benefits of a Shareholder of a Share under the Instrument of Incorporation are granted to a Shareholder of a fraction of a Share in proportion to the fraction of a Share held by him and, except where the context otherwise requires or is otherwise provided herein, reference in the Instrument of Incorporation to Share shall include a fraction of a Share. Notwithstanding anything contained in this Instrument of Incorporation, the Shareholder of a fraction of a Share may not exercise any voting rights in respect of such Share.

8. **Minimum Initial Investment Amount**

The Directors may in their absolute discretion decline to issue any Share Class to satisfy any initial application unless the amount in value of the Shares to which an application relates

equals or exceeds the Minimum Initial Investment Amount or its equivalent in another currency provided that in no circumstances may the Directors issue Shares of any Share Class to satisfy any initial application where the amount in value of the Shares to which an application relates does not equal or exceed the minimum amount required by the Central Bank. Thereafter, Shareholders may make additional subscriptions for Shares having a value, at the then current Subscription Price of not less than the Minimum Additional Investment Amount or its equivalent in another currency.

9. **Funds**

9.1 All consideration, other than the Subscription Charge (if any) payable to the ICAV or its appointees or as any of them may determine pursuant to clause 4 of this Schedule or other amounts referred to in clause 2 of this Schedule received by or on behalf of the ICAV for the allotment or issue of Shares of a Fund, or if there is more than one Share Class in a particular Fund, of all such Share Classes, together with all Investments in which such consideration is invested or reinvested, all income, earnings, profits and proceeds thereof shall be segregated and kept separate from all other monies of the ICAV and such assets and monies shall be referred to as a Fund there being one Fund in respect of each Share Class (or all such Share Classes, as the case may be) and to which the following provisions shall apply:

- (A) for each Fund the ICAV shall keep separate books and records in which all transactions relating to the relevant Fund shall be recorded and, in particular, the proceeds from the allotment and issue of each Shares of each Share Class in the Fund, the Investments and the liabilities and income and expenditure attributable thereto shall be applied or charged to such Fund subject to the provisions of this clause 9;
- (B) any asset derived from any other Asset(s) (whether cash or otherwise) comprised in any Fund shall be applied in the books and records of the ICAV to the same Fund as the Asset from which it was derived and any increase or diminution in the value of such an Asset shall be applied to the relevant Fund.

9.2 No Shares will be issued on terms that entitle the Shareholder of any Shares in a Fund to participate in the Assets of the ICAV other than the Assets (if any) of the Fund relating to such Shares. If the proceeds of the Assets of the relevant Fund are not sufficient to fund the full redemption amount payable to each Shareholder for the relevant Fund, the proceeds of the relevant Fund will, subject to the terms for the relevant Fund, be distributed equally among each Shareholder of the relevant Fund pro rata to the amount paid up on the Shares held by each Shareholder. If the realised net assets of any Fund are insufficient to pay any amounts due on the relevant Shares in full, in accordance with the terms of the relevant Fund, the relevant Shareholders of that Fund will have no further right of payment in respect of such Shares or any claim against the ICAV, any other Fund or any Assets of the ICAV in respect of any shortfall.

9.3 In the event that there are any Assets which the Directors do not consider are attributable to a particular Fund or Funds, the Directors shall, with the approval of the Depositary, allocate such Assets to and among any one or more of the Funds in such manner and on such basis as they, in their discretion, deem fair and equitable. The Directors shall have the power to and may at any time and from time to time, with the approval of the Depositary, vary the basis in relation to Assets previously allocated.

9.4 Each Fund shall be charged with the liabilities, expenses, costs, charges or reserves of the ICAV in respect of or attributable to that Fund and any such liabilities, expenses,

costs, charges or reserves of the ICAV not attributable to any particular Fund or Funds shall be allocated and charged by the Directors, with the approval of the Depositary, in such manner and on such basis as the Directors, in their sole and absolute discretion deem fair and equitable, and the Directors shall have the power to and may at any time and from time to time, with the approval of the Depositary, vary such basis including, where circumstances so permit, the re-allocation of such liabilities, expenses, costs, charges and reserves.

- 9.5 Where derivative and/or hedging strategies are used in relation to a Fund or Share Class, the financial instruments used to implement such strategies shall be deemed to be Assets or liabilities (as the case may be) of the relevant Fund as a whole but will be clearly attributable to a specific Share Class and the gains/losses on and the costs of the relevant financial instruments will accrue solely to the relevant Share Class.
- 9.6 In the event that any Asset attributable to a Fund is taken in execution of a liability not attributable to that Fund, the provisions of section 36(6) of the ICAV Act shall apply.
- 9.7 Subject as otherwise provided herein, the Assets held in each Fund shall be applied solely in respect of the Shares of the Share Class (or Share Classes as the case may be) to which such Fund appertains and shall not be used to discharge directly or indirectly the liabilities of or claims against any other Fund and shall not be available for any such purpose.
- 9.8 If the Directors shall determine that a sufficient amount of subscription monies (such amount to be determined by the Directors in their discretion) have not been received during the Initial Offer Period of a Share Class of a Fund (where no other Share Classes have yet been launched in that Fund), the Directors may determine in their discretion not to proceed to launch that Fund and shall return the subscription monies to each investor at their risk and expense.

10. **Fund exchanges**

- 10.1 Unless otherwise determined by the Directors and subject to the provisions of the ICAV Act, the Instrument of Incorporation and the Prospectus, a Shareholder holding Shares in any Share Class in a Fund (the first Share Class) on any Dealing Day shall have the right from time to time to exchange all or any of such Shares for Shares of the corresponding Share Class in another Share Class or Fund (the new class) (such Share Class being either an existing Share Class or a share class agreed by the Directors to be brought into existence with effect from that Dealing Day) provided that all criteria for applying for the new Shares have been met on the following terms:
- 10.2 The Shareholder shall give to the ICAV or its authorised agent(s) instructions (hereinafter called an "Exchange Notice") in such form as the Directors may from time to time determine.
- 10.3 The exchange of the Shares specified in the Exchange Notice pursuant to this clause 10 shall occur on a Dealing Day for the first Share Class and the new Share Class in respect of Exchange Notices received on or prior to the relevant Dealing Deadline for that Dealing Day (or prior to such other time of day as the Directors may determine either generally or in relation to a particular Fund or in any specific case) by the ICAV or its authorised agent(s) or on such other Dealing Day as the Directors at the request of the Shareholder may agree the ICAV or its authorised agents may in their discretion accept Exchange Notices received after the Dealing Deadline for the relevant Dealing Day provided the Exchange Notices are received prior to the relevant Valuation Point

and a Shareholder's entitlement to Shares as recorded in the Register shall be altered accordingly with effect from that Dealing Day.

10.4 Exchange of the Shares of the first Class specified in the Exchange Notice shall be effected in the following manner, that is to say:

- (A) such Shares of the first Class shall be redeemed by the issue of Shares of the new Share Class;
- (B) the Shares of the new Share Class shall be issued in respect of and in proportion to (or as nearly as may be in proportion to) the holding of the Shares of the first Share Class which is being exchanged; and
- (C) the proportion in which Shares of the new Share Class are to be issued in respect of Shares of the first Share Class shall be determined in accordance with clause 10.3 of this Schedule;

Provided always that the right of a Shareholder to exchange his Shares in the first class for Shares in the new Share Class conferred by this clause 10 shall be conditional upon the ICAV having sufficient available Share capital to enable the exchange to be implemented as aforesaid.

10.5 The Directors shall determine the number of Shares of the new Share Class to be issued on exchange in accordance with the following formula:

$$S = \frac{R \times (RP \times ER) - F}{IP}$$

where:

R is the number of Shares of the first Share Class specified in the Exchange Notice which the Shareholder thereof has requested to be exchanged;

S is the number of Shares of the new Share Class to be issued;

RP is the Redemption Price per Share of the first Share Class as calculated as at the relevant Valuation Point for the Dealing Day on which the exchange is to be effected;

ER in the case of an exchange of Shares designated in the same currency is 1. In any other case it is the currency conversion factor determined by the Directors as representing the effective rate of exchange applicable to the transfer of Assets relating to the first and new Share Classes after adjusting such rate as may be necessary to reflect the effective costs of making such transfer;

IP is the Subscription Price per Share for the new Share Class as calculated as at the relevant Valuation Point for the Dealing Day on which the exchange is to be effected.

F is the exchange charge, if any, payable on the exchange of Shares as set out in clause 10.4 of this Schedule.

AND the number of Shares of the new Share Class to be created or issued pursuant to this clause 10 shall be so created or issued in respect of each of the Shares of the first Share Class being exchanged in the proportion (or as nearly as may be in the proportion) S to R where S and R have the meanings ascribed to them above.

- 10.6 On any exchange of Shares pursuant to this clause 10, the Directors may charge a fee, for payment to the ICAV or any of its appointees or as any of them may direct for the total number of Shares in the first Share Class to be redeemed, calculated as at the relevant Valuation Point for the Dealing Day on which the exchange is effected.
- 10.7 Requests for the exchange of Shares as an initial investment in a new Share Class will only be made if the value of the Shares to be exchanged is equal to or exceeds the Minimum Initial Investment Amount for the new Share Class. The Directors may refuse to give effect to any Exchange Notice if to do so would cause the relevant Shareholder's holding in the first Share Class to fall below the Minimum Holding specified for that Share Class.
- 10.8 Share Class may not be exchanged for Shares in another Share Class during any period when the calculation of the Net Asset Value of the relevant Fund or either of the relevant Funds as the case may be is suspended by reason of a declaration by the Directors pursuant to clause 19 of this Schedule. Applicants will be notified of such suspension at the time of application and any request for the exchange of Shares not withdrawn shall, subject to the provisions of this Instrument of Incorporation, be dealt with on the first Dealing Day after such suspension is lifted.
- 10.9 The ICAV may charge an applicant for any costs or expenses incurred in respect of any currency transaction which may be required in respect of an exchange of Shares.
- 10.10 Without prejudice to the Directors' right to accept, restrict or cancel any redemption requests, the Directors may refuse to accept, restrict or cancel requests which, in the sole judgement of the Directors represent excessive trading and/or mark timing or other activity which they believe harmful to the ICAV or any Funds without giving any reason.

11. **Termination of Funds**

- 11.1 The ICAV or any Fund may be terminated and/or the Shares of a Fund (or any Share Class of a Fund) may be redeemed by the Directors, in their sole and absolute discretion, in consultation with the Manager, by notice in writing to the Depositary in any of the following events:
- (A) if at any time the Net Asset Value (or its currency equivalent) of the relevant Fund shall be less than such amount as may be determined by the Directors in respect of that Fund; or
 - (B) by not less than thirty (30) days' nor more than sixty (60) days' notice to Shareholders if, within ninety (90) days from the date of the Depositary serving notice of termination of the Depositary Agreement, another Depositary acceptable to the ICAV and the Central Bank has not been appointed to act as Depositary; or
 - (C) if the ICAV or any Fund shall cease to be authorised or otherwise officially approved by the Central Bank; or
 - (D) if a special resolution is passed by the Shareholders of a Fund and/or the ICAV; or
 - (E) if any law shall be passed which renders it illegal or in the opinion of the Directors, impracticable or inadvisable to continue the ICAV or any Fund; or

- (F) if there is any material change in the tax status of the ICAV or any Fund in Ireland or in any other jurisdiction (including any adverse tax ruling by the relevant authorities in Ireland or any jurisdiction affecting the ICAV or any Fund) which the Directors consider would result in material adverse consequences on the Shareholders and/or the Investments of the Fund; or
 - (G) if the Assets held in respect of a Fund are terminated or redeemed and the Directors determine that it is not commercially practical to reinvest the realisation proceeds of such Assets in replacement Assets on terms that will enable the relevant Fund achieve its Investment objective and/or to comply with its Investment policy; or
 - (H) in respect of a Fund which is established as a feeder UCITS in accordance with and within the meaning of chapter VIII of the UCITS Directive, where the relevant master UCITS is terminated, the relevant Fund must also be terminated unless such Fund has obtained approval from the Central Bank to invest as a feeder UCITS into another master UCITS or convert to a non-feeder UCITS; or
 - (I) in respect of a Fund which is established as a feeder UCITS in accordance with and within the meaning of chapter VIII of the UCITS Directive, where the relevant master UCITS merges with another UCITS, or the master UCITS is divided into two (2) or more UCITS, the relevant Fund must be terminated unless such Fund has obtained approval from the Central Bank to continue as a feeder UCITS of the master UCITS or another UCITS resulting from such a merger, invest as a feeder UCITS into another master UCITS or convert to a non-feeder UCITS; or
 - (J) if such termination is provided for in the Prospectus or the relevant Supplement; or
 - (K) if the Directors consider that it is in the best interests of the Shareholders of the Fund or the ICAV; or
 - (L) if the Net Asset Value of the relevant Fund is less than the Minimum Fund Size; or
 - (M) if there is a change in material aspects of the business or in the economic or political situation relating to a Fund and/or the ICAV which the Directors consider would have material adverse consequences on the Shareholders and/or the Investments of the Fund and/or the ICAV.
- 11.2 The decision of the Directors in any of the events specified herein shall be final and binding on all the parties concerned but the Directors shall be under no liability on account of any failure to terminate the relevant Fund pursuant to this clause 11 or otherwise.
- 11.3 The Directors shall give notice of termination of a Fund to the Shareholders in the relevant Fund and by such notice fix the date at which such termination is to take effect, which date shall be for such period after the service of such notice as the Directors shall in their sole and absolute discretion determine.
- 11.4 With effect on and from the date as at which any Fund is to terminate or in the case of clause 11.4(B) of this Schedule such other date as the Directors may determine:

- (A) no Shares of the relevant Fund may be issued or sold by the ICAV;
- (B) the Investment Manager shall, on the instructions of the Directors, realise all the Assets then comprised in the relevant Fund which realisation shall be carried out and completed in such manner and within such period after the termination of the relevant Fund as the Directors think advisable;
- (C) the Depositary shall, on the instructions of the Directors from time to time, distribute to the Shareholders of the relevant Fund in proportion to their respective interests in the relevant Fund all net cash proceeds derived from the realisation of the relevant Fund and available for the purpose of such distribution, provided that the Depositary shall not be bound (except in the case of the final distribution) to distribute any of the monies for the time being in its hands the amount of which is insufficient to pay Euro 1 or its equivalent amount in the relevant currency in respect of each Share of the relevant Fund and provided also that the Depositary shall be entitled to retain out of any monies in its hands as part of the relevant Fund full provision for all costs, charges, expenses, claims and demands incurred, made or apprehended by the Depositary or the Directors in connection with or arising out of the termination of the relevant Fund and out of the monies so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands;
- (D) every distribution referred to above shall be made in the manner as the Directors shall, in their sole and absolute discretion determine but shall be made only against production of the certificates or warrants relating to the Shares of the relevant Fund if issued in respect of which the same is made and upon delivery to the Depositary of such form of request for payment as the Depositary shall in its absolute discretion require. All certificates shall in the case of an interim distribution be encased by the Depositary with a memorandum of payments made and in the case of the final distribution shall be surrendered to the Depositary. Any unclaimed proceeds or other cash held by the Depositary hereunder may at the expiration of twelve (12) months from the date upon which the same were payable be paid into court subject to the right of the Depositary to deduct therefrom any expenses it may incur in making such payment.

12. **Shareholders' right to request the redemption of Shares**

As the ICAV is open-ended, Shareholders shall have the right to request the ICAV to redeem their Shares, in accordance with the provisions of clause 13 below. Subject to any requirements of the Central Bank, the Directors shall have the power to determine the terms on which Shares will be redeemed by the ICAV and such terms will be set out in the Prospectus and/or each relevant Supplement. Such terms may include reservation to the Directors of the right, at their absolute discretion, to refuse to accept any redemption request in whole or in part.

13. **Redemption mechanism**

- 13.1 Subject to the provisions of the ICAV Act, this Instrument of Incorporation and subject as hereinafter provided the ICAV may, on receipt by it or its authorised agent(s) of a request (which request may, at the Directors' discretion, either generally or in relation to any specific request, be made in writing, by facsimile or by another method (for example, electronically) in accordance with the procedure set out in the Prospectus or

in such other form as the Directors may, from time to time, determine) by a Shareholder (the "Applicant"), redeem all or any portion of the Shares held by the Applicant at the Redemption Price, determined in accordance with clause 14 of this Schedule or procure the purchase thereof at not less than the Redemption Price on the relevant Dealing Day. Such request to redeem Shares must be accompanied by the duly endorsed certificate or certificates (if any) issued for the Shares to which it relates, PROVIDED THAT:

- (A) the redemption of Shares pursuant to this clause 13 shall be made on a Dealing Day in respect of requests (equal or greater to the Minimum Redemption Amount, if any, subject to the discretion of the Directors to allow lesser amounts) received by the ICAV or its authorised agent on or prior to the Dealing Deadline for that Dealing Day;
- (B) any such request received after the Dealing Deadline for a Dealing Day shall, unless the Directors shall otherwise agree and provided it is received before the relevant Valuation Point, be treated as having been received prior to the following Dealing Deadline;
- (C) If the determination of the Net Asset Value of the relevant Fund is suspended on any Dealing Day by reason of a declaration by the Directors pursuant to clause 19 of this Schedule, an Applicant may withdraw his request to have his Shares redeemed pursuant to this clause 13. If the request is not so withdrawn, the ICAV shall be at liberty to redeem the Shares on the Dealing Day next following the end of the suspension;
- (D) subject as aforesaid and to the discretion of the Directors, an Applicant shall not be entitled to withdraw a request duly made in accordance with this clause 13;
- (E) the ICAV may retain a sufficient portion of the amount payable to the Applicant in respect of the redemption to pay any taxation payable to any tax authorities in respect of the redemption of the Shares;
- (F) any amount payable to the Applicant in connection with the redemption of Shares shall, at the risk and cost of the Applicant, be paid in the same currency as that in which the Shares are designated or in such other currency as the Directors shall determine. Any such amount may be remitted by or on behalf of the ICAV by electronic or telegraphic transfer to the bank account specified by the Applicant not later than the relevant Settlement Date (which in respect of open-ended Funds must not exceed the time limit set by the Central Bank), if any, or at the option of the Directors, and at the request of the Applicant (but at his risk and cost) shall be sent by post in the form of a negotiable instrument by or on behalf of the ICAV to the Applicant not later than the relevant Settlement Date, in each case provided that the ICAV and/or its delegate has received all AML/CTF, tax exchange or documentation required from the Shareholder in order to make such payment. If the amount to be paid by the ICAV as aforesaid shall not be expressed in the currency in which the Shares which the ICAV has redeemed were designated then the rate of exchange between that currency and the currency agreed for payment shall be such rate as the Directors shall consider appropriate. The cost of conversion (if any) shall be debited from the converted payment. The certificate of the Directors as to the conversion rate applicable and as to the cost of conversion shall be conclusive and binding on all persons;

- (G) subject to written instructions from the Applicant to the ICAV (or its authorised agent) directing otherwise, which the ICAV (or its authorised agent) may require to be verified or otherwise supported by additional documentation, the ICAV (or its authorised agent) shall pay the proceeds of redemption to the Applicant;
 - (H) the Directors may, in their absolute discretion and subject to the prior approval of the Depositary, agree to designate additional Dealing Days and Valuation Points for the redemption of Shares relating to any Fund which will be open to all Shareholders of Shares in the relevant Fund or Share Class thereof and which will be notified in advance to all such Shareholders;
 - (I) subject to the requirements of the Central Bank different Share Classes in a Fund may have different redemption terms.
- 13.2 The redemption of Shares under the provisions of this clause 13 shall be deemed to be effected immediately after the Valuation Point for the relevant Dealing Day. Shares redeemed in accordance with the provisions of this clause 13 shall be deemed to cease to be in issue at the close of business on the Dealing Day on which they are redeemed and the amount of the issued Share capital of the ICAV shall be reduced by the proceed paid to the Shareholder in respect of the redemption of the Shares.
- 13.3 Upon the redemption of a Share being effected, the Applicant shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a dividend which has been declared in respect thereof prior to such redemption being effected) and accordingly his name shall be removed from the Register with respect thereto and the Shares shall be treated as cancelled and the amount of issued Share capital in respect of such Share Class shall be reduced accordingly.
- 13.4 The Directors may in their absolute discretion accept instructions from a Shareholder to cancel a redemption request which he/she has submitted to the ICAV (or its agent) provided such instructions are received by the ICAV (or its agent) before the Shares have been redeemed. The ICAV may charge such Shareholder any fees or expenses incurred in processing and/or cancelling the redemption request.
- 13.5 Without prejudice to the Directors' right to accept, refuse, restrict or cancel any redemption requests, the Directors may refuse to accept, refuse, restrict or cancel redemption requests which, in the sole judgement of the Directors, represent excessive trading and/or market timing.
- 13.6 Subject as aforesaid and to the discretion of the Directors or their delegate, an Applicant shall not be entitled to withdraw a request duly made in accordance with this clause 13.

14. **Redemption Price of Shares**

- 14.1 The Redemption Price per Share shall be the Net Asset Value per Share less such sum as the Directors may consider represents the appropriate allowance for Duties and Charges in relation to the redemption of the Shares to be redeemed, less a Redemption Charge, if any, at the discretion of the Directors, and less at the discretion of the Directors, on any Dealing Day when there are net redemptions for a Fund, an Anti-Dilution Levy may be deducted from the Redemption Price to cover dealing costs and to preserve the value of the Fund in question with the resulting sum being rounded to the nearest three (3) decimal places or such other number of decimal places as may from time to time be determined by the Directors and/or as stipulated in the Prospectus

or relevant Supplement. The Net Asset Value per Share of the relevant Share Class or series shall be an amount as determined by the Directors on the relevant Dealing Day referred to in clause 14.1(A) of this Schedule by:

- (A) determining that proportion of the Net Asset Value of the relevant Fund which is attributable to the relevant Share Class or series of Shares as at the Valuation Point for the relevant Dealing Day;
 - (B) where the Share Class is a Hedged Currency Share Class, adding to or deducting from (as the case may be) the sum calculated in accordance with clause 14.1(A) of this Schedule the costs and gains/losses of any currency hedging transactions effected in respect of that Share Class;
 - (C) dividing the sum calculated in accordance with clause 14.1(A) of this Schedule by the number of Shares of the relevant Share Class in issue or deemed to be in issue in the relevant Fund at the Valuation Point for the relevant Dealing Day; and
 - (D) rounding the amount so determined mathematically to three (3) decimal places of the unit of the currency of the Shares (unit for such purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency) or to such other number of decimal places or significant figures as the Directors may from time to time determine.
- 14.2 The Directors may on any Dealing Day require an Applicant to pay to the ICAV or any of its appointees or as any of them may direct, for its or their absolute use and benefit, a Redemption Charge subject to a maximum amount as disclosed in the Prospectus of the Redemption Price of the relevant Share Class being redeemed on that Dealing Day. The amount of any such charge may be deducted from the amount to be paid by the ICAV to the Applicant in respect of the Shares to be redeemed. The Directors may on any Dealing Day differentiate between Applicants as to the amount of the Redemption Charge required to be paid to the ICAV, or its appointees or as they may direct and as to the amount of Redemption Charge to be levied on each Share Class (subject to the maximum aforesaid). The Directors shall not increase the maximum Redemption Charge without the prior approval by an ordinary resolution of Shareholders or with the prior written approval of all Shareholders. In the event of an increase the maximum Redemption Charge, a reasonable notification period shall be provided to Shareholders to enable such Shareholder to redeem their holding prior to the implementation of any increase in the Redemption Charge.
- 14.3 Such portion of the Redemption Price of any Shares redeemed on a Dealing Day (except a Dealing Day which is a record day for the declaration of a dividend) as the Directors in their absolute discretion consider appropriate shall be deemed to be a distribution to the relevant Applicant of the proportion of the undistributed net revenue accrued to the relevant Fund up to such Dealing Day attributable to the Shares in respect of which such Redemption Price is payable.
- 14.4 Where any tax is payable to the Irish tax authorities in respect of a redemption of Shares by a Shareholder who is or is deemed to be a Irish Taxable Person or is acting on behalf of such a person, the Redemption Price shall be reduced by an amount equal to such tax which shall be paid by or on behalf of the ICAV to the authorities.
- 14.5 If any redemption requests received by the Directors would necessitate, in the opinion of the Directors, the breaking of deposits at a penalty or the realisation of Investments

at a discount below their value, as calculated in accordance with Schedule 2, the Redemption Price in respect of the relevant Shares may be reduced by a proportionate part of such reduction in value or penalty which will be suffered by the relevant Fund in such manner as the Directors may consider fair and equitable and which is approved by the Depositary. Alternatively, the Directors may arrange for the ICAV to borrow Funds in subject always to any borrowing restrictions in force in relation to the ICAV or the relevant Fund, and the costs of such borrowings may be apportioned as aforesaid to such extent as the Directors may consider fair and equitable.

15. **Limitations on redemption/exchange of Shares**

- 15.1 In circumstances where redemption requests on any Dealing Day for Shares exceeds 10% of the total number of Shares or represents greater than 10% of the Net Asset Value of any Fund in issue at the Valuation Point for that Dealing Day, the Directors may refuse to redeem any Shares in excess of 10% of the total number of Shares or representing greater than 10% of the Net Asset Value or such higher percentage as the Directors may determine and may scale down the number of Shares to be redeemed in response to each request pro rata to such extent as may be necessary to ensure that the foregoing limit is not exceeded and may carry forward for redemption to the next following Dealing Day the balance of each request and so on to each succeeding Dealing Day until all the Shares to which the original request relates have been redeemed.
- 15.2 In respect of any Applicant, where the redemption amount in respect of Shares held by him to be redeemed on any Dealing Day amount to more than 5% of the Net Asset Value of a Fund, the Manager, acting on behalf of the ICAV, shall have the power, at its sole discretion, without the consent of the redeeming Applicant, to determine to divide in specie the whole or any part of the Assets of the relevant Fund and shall have the right to elect by notice in writing to the Applicant (such notice period to be reasonable as determined by the Directors and the Manager) to appropriate and transfer Assets to him in full or part satisfaction of the Redemption Price or any part of the said Redemption Price (provided that such a distribution would not be prejudicial to the interests of the remaining Shareholders in such Fund). In addition, with the consent of the Applicant, the ICAV may, in circumstances not covered by the foregoing, appropriate and transfer Assets to him in full or part satisfaction of the Redemption Price or any part of the Redemption Price (provided that such a distribution would not be prejudicial to the interests of the remaining Shareholders in such Fund). In each case the allocation of Assets to the Applicant will be subject to the approval of the Depositary.
- 15.3 Where a notice of election is served under clause 15.2 of this Schedule on an Applicant, the Applicant (following a redemption request amounting to more than 5% of the Net Asset Value of a Fund) may by a further notice served on the ICAV (such notice to be received by the ICAV within a reasonable period of time as agreed between the Directors and the Manager) require the ICAV instead of transferring the Assets in question to arrange:
- (A) for a sale of the Assets; and
 - (B) for payment to the Applicant of the net proceeds of sale.
- 15.4 No such notice is required to be given by the Applicant where the Supplement for the relevant Fund provides for an irrevocable instruction to be given by a Shareholder in the relevant Fund for such a sale and payment in these circumstances.

- 15.5 Where there is a transfer of Assets pursuant to clause 15.3 of this Schedule, the Depositary of the ICAV shall transfer to the Applicant his proportionate share of the Assets of the relevant Fund. For the purposes of this clause proportionate share means such part of each type of Asset in the relevant Fund as is proportionate to or as nearly as practicable proportionate to the Applicant's share or such selection from the Assets of the relevant Fund as the Directors shall, following consultation with the Depositary, decide is reasonable having regard to the need to be fair both to the Applicant and continuing Shareholders in the relevant Fund.
- 15.6 Where there is to be a sale of Assets under clause 15.3 of this Schedule:
- (A) the ICAV shall forthwith notify the Depositary of that fact and shall arrange for the sale of the Assets that would have been transferred under clause 15.3 of this Schedule (other than Assets which are in cash in the relevant currency for the purposes of the redemption); and
 - (B) the Depositary shall on receipt of such evidence of title as it may require pay to the Applicant the net proceeds of the sale and any relevant amounts in cash.
- 15.7 If any request to the ICAV to redeem Shares of any Share Class shall reduce the number of Shares of the relevant Share Class held by the Applicant below the Minimum Holding such request may be treated by the Directors as a request to redeem the Applicant's entire holding. The foregoing shall not prevent a redemption of the whole of a holding of Shares of any Share Class less than the Minimum Holding nor shall this clause apply in circumstances where as a result of the ICAV exercising its rights to scale down any redemption requests, in accordance with clause 15.3 of this Schedule, a Shareholder's holding of Shares is reduced below the Minimum Holding.
- 15.8 The ICAV will not be permitted to redeem Shares if, after payment of any amount in connection with such redemption, the Net Asset Value of the issued Share capital of the ICAV would be equal to or less than €2 or the foreign currency equivalent thereof. The foregoing shall not apply to a redemption request permitted by the Directors in contemplation of the dissolution of the ICAV in accordance with the ICAV Act or in connection with the termination of a Fund.
- 15.9 The ICAV may compulsorily redeem all of the Shares of any Fund if the Net Asset Value of the relevant Fund is less than the Minimum Fund Size.
- 15.10 The Directors reserve the right to withhold payment of redemption proceeds at their sole discretion for such period of time as they may think fit in circumstances where they determine it is appropriate or necessary to do so to comply with any AML/CTF procedures or tax information exchange requirements and legislation or any regulation, code of practice or guidance note promulgated under legislation applicable to the ICAV or its service providers, directly or indirectly, in any jurisdiction.
16. **No Shares redeemed when calculation of Net Asset Value suspended**

The Directors may, in their absolute discretion, determine that no Shares will be redeemed and no redemption proceeds paid during any period when the determination of the Net Asset Value of the relevant Fund is suspended pursuant to clause 18. Shareholders applying for redemption of their Shares will be notified of such suspension at the time of application. Subject to the terms of clause 15 of this Schedule, any application which is not withdrawn shall, subject to the provisions of this Instrument of Incorporation, be dealt with on the first

Dealing Day for the relevant Fund after such suspension is lifted and shall be dealt with in priority to subsequently received redemption requests.

17. **Determination of Net Asset Value**

The Net Asset Value of a Fund shall be determined in accordance with Schedule 2.

18. **Suspension of determination of Net Asset Value/postponement of a Dealing Day**

18.1 The Directors may at any time declare a temporary suspension of the determination of the Net Asset Value of a Fund and the issue, redemption and exchange of Shares and the payment of redemption proceeds:

- (A) during any period when any of the markets or stock exchanges on which a substantial portion of the Assets of the relevant Fund are quoted, listed or dealt in is closed, otherwise than for ordinary holidays, or during which dealings therein are restricted or suspended; or
- (B) during any period when, as a result of political, economic, military or monetary events or any circumstances outside the Control, responsibility and power of the Directors, disposal or valuation of a substantial portion of the Assets of the relevant Fund is not reasonably practicable without this being seriously detrimental to the interests of Shareholders of the relevant Fund or if, in the opinion of the Directors, the Net Asset Value of the Fund cannot be fairly calculated; or
- (C) during any breakdown in the means of communication normally employed in determining the price of a substantial portion of the Assets of the relevant Fund, or when, for any other reason the current prices on any market or stock exchanges of any of the Assets of the relevant Fund cannot be promptly and accurately ascertained; or
- (D) during 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 relevant Fund or the remaining Shareholders in the relevant Fund; or
- (E) during 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; or
- (F) during any period when proceeds of any sale or repurchase of the Shares cannot be transmitted to or from the account of the relevant Fund; or
- (G) during any period in which the repurchase of the Shares would, in the opinion of the Directors, result in a violation of applicable laws; or
- (H) during any period during which any transfer of Funds involved in the realisation or acquisition of Assets or payments due on the repurchase of Shares of the relevant Fund cannot, in the opinion of the Directors, be effected at normal prices or rates of exchange; or

- (I) during any period when the Directors are unable to repatriate Funds required for the purpose of making payments due on the repurchase of Shares in the relevant Fund; or
- (J) during any period when in the opinion of the Directors such suspension is justified having regards to the best interests of the ICAV and/or the relevant Fund; or
- (K) following the circulation to Shareholders of a notice of a general meeting at which a resolution proposing to wind up the ICAV or terminate the relevant Fund is to be considered; or
- (L) where such suspension is required by the Central Bank in accordance with the UCITS Regulations.

18.2 Any such suspension shall take effect at such time as the Directors shall declare but not later than the close of business on the Business Day next following the declaration and thereafter there shall be no determination of the Net Asset Value of the relevant Fund and no issues, redemptions or exchanges of Shares of the relevant Fund and no redemption proceeds paid until the Directors shall declare the suspension at an end.

18.3 The Directors may postpone any Dealing Day for a Fund to the next Business Day if in the opinion of the Directors, a substantial portion of the Investments of the relevant Fund cannot be valued on an equitable basis and such difficulty is expected to be overcome within one (1) Business Day.

18.4 The determination of the Net Asset Value of a Fund shall also be suspended where such suspension is required by the Central Bank in accordance with the ICAV Act.

19. **Notification of suspension to Central Bank, stock exchanges and Shareholders**

Any such suspension of the determination of the Net Asset Value of a Fund shall be notified to the Central Bank immediately and in any event within the same Business Day on which such suspension occurred. If the Shares are listed on the official list and trading on the main securities market of the Euronext Dublin or any other exchange any such suspension shall be notified to the Euronext Dublin and such other exchange within the time frame specified above. Details of any such suspension will also be notified to all Shareholders if in the opinion of the Directors, it is likely to exceed fourteen (14) days.

20. **Compulsory redemption or transfer of Shares**

20.1 The Directors shall have power (but shall not be under any duty) to impose such restrictions as they may think necessary for the purpose of ensuring that no Shares of any Share Class are acquired or held directly or beneficially by a person or an entity who/which is in the opinion of the Directors any of the following:

- (A) who is or will hold Shares for the benefit of a US Person (unless the Directors determine (i) the transaction is permitted under an exemption from registration available under the securities laws of the US and (ii) that the relevant Fund and the ICAV continue to be entitled to an exemption from registration as an Investment ICAV under the securities laws of the US if such person holds Shares); or
- (B) under the age of 18 (or such other age as the Directors may think fit); or

- (C) has breached or falsified representations on subscription documents (including as to its status under ERISA (the Employee Retirement Income Security Act)); or
- (D) has breached of any law or requirement of any country or government or supranational authority or by virtue of which such person or entity is not qualified to hold Shares; or
- (E) if the holding of the Shares by that person or entity is unlawful or is less than the Minimum Holding set for that Share Class; or
- (F) in circumstances which (whether directly or indirectly affecting such person or persons or entity, and whether taken alone or in conjunction with any other persons or entities, connected or not, or any other circumstances appearing to the Directors to be relevant), in the opinion of the Directors, might result in the ICAV or a particular Fund incurring any liability to taxation or suffering any other pecuniary legal or material administrative disadvantage (including endeavouring to ensure that the relevant Fund's Assets are not considered plan Assets for the purpose of ERISA) or being in breach of any law or regulation which the ICAV or the relevant Fund might not otherwise have incurred or suffered or breached (including without limitation, where a Shareholder fails to provide the ICAV with information required to satisfy the obligations under FATCA of the ICAV, a Fund, the Depositary, the administrator, the Investment Manager or any delegate thereof); or
- (G) in circumstances which might result in the relevant Fund being required to comply with registration or filing requirements in any jurisdiction with which it would not otherwise be required to comply or is otherwise prohibited by the Instrument of Incorporation.

References in this Instrument of Incorporation to Permitted Investor means any person other than any of the persons specified above.

- 20.2 The Directors shall, unless any Director has reason to believe otherwise, be entitled to assume without enquiry that none of the Shares are held in such a way as to entitle the Directors to give a notice in respect thereof pursuant to clause 20.3 of this Schedule. The Directors may, however, upon an application for Shares or at any other time and from time to time require such evidence and/or undertakings to be furnished to them in connection with the matters stated in clause 20.1 of this Schedule as they shall in their discretion deem sufficient or as they may require for the purpose of any restriction imposed pursuant thereto or for compliance with any AML/CTF provisions or tax information exchange requirements applicable to the ICAV. In the event of such evidence and/or undertakings not being so provided within such reasonable period (not being less than twenty-one (21) days after service of notice requiring the same) as may be specified by the Directors in the said notice, the Directors may, in their absolute discretion, treat any Shares held by such a Shareholder or joint Shareholder as being held in such a way as to entitle them to serve a notice in respect thereof pursuant to clause 20.3 of this Schedule.
- 20.3 If it shall come to the notice of the Directors that any Shares are or may be owned or held directly or beneficially by any person who is not a Permitted Investor (the relevant Shares), the Directors may give notice to the person in whose name the relevant Shares are registered requiring him to transfer (and/or procure the disposal of interests in) the relevant Shares to a person who is in the opinion of the Directors a Permitted

Investor. If any person upon whom such a notice is served pursuant to this clause does not within twenty-one (21) days after the giving of such notice (or such extended time as the Directors in their absolute discretion shall consider reasonable) transfer the relevant Shares to a Permitted Investor, or establish to the satisfaction of the Directors (whose judgement shall be final and binding) that he is not subject to such restrictions, the Directors may in their absolute discretion upon the expiration of such twenty-one (21) days either arrange the transfer of all the relevant Shares to a Permitted Investor in accordance with clause 20.4 below or arrange for the relevant Shares to be redeemed by the ICAV at the relevant Redemption Price. The Shareholder of the relevant Shares shall be bound forthwith to deliver his Share certificate (if any) to the Directors and the Directors shall be entitled to appoint any person to sign on his behalf such documents as may be required for the purpose of the transfer or redemption, as the case may be, of the relevant Shares by the ICAV.

- 20.4 A person who becomes aware that he holds or owns relevant Shares shall forthwith unless he has already received a notice pursuant to clause 20.3 of this Schedule transfer all his relevant Shares to a Permitted Investor or with the approval of the Directors request the redemption of the Shares.
- 20.5 A transfer of relevant Shares arranged by the Directors pursuant to clause 20.3 of this Schedule shall be by way of sale at the best price reasonably obtainable and may be of all of or part only of the relevant Shares with a balance available for transfer to other Permitted Investors or redeemed by the ICAV. Any payment received by the ICAV for the relevant Shares so transferred shall be paid to the person whose Shares have been so transferred subject to clause 20.6 of this Schedule.
- 20.6 Payment of any amount due to such person pursuant to clauses 20.3, 20.4 and 20.5 of this Schedule shall be subject to any requisite exchange Control consents first having been obtained and the ICAV not being in breach of any other law or regulation. The amount due to such person will be deposited by the ICAV in a bank for payment to such person upon such consents being obtained and against surrender of the Share certificate, if any, representing the relevant Shares previously held by such person. Upon deposit of such amount as aforesaid such person shall have no further interest in such relevant Shares or any of them or any claim against the ICAV in respect thereof except the right to receive such amount so deposited (without interest) upon such consents as aforesaid being obtained.
- 20.7 Notwithstanding any other provisions of this Instrument of Incorporation, where the ICAV is required to pay tax on the transfer of an entitlement to a Share by a Shareholder who is or is deemed to be a Irish Taxable Person or is acting on behalf of such a person or on the occurrence of chargeable events as defined in section 739(B)(1)(ccc) and (d) TCA, the ICAV shall be entitled to appropriate or cancel a sufficient portion of the Shareholder's Shares and to appropriate the proceeds thereof as is necessary to discharge the amount of taxation payable in respect of the transfer or the relevant chargeable event.
- 20.8 Notwithstanding any other provisions of this Instrument of Incorporation where the ICAV is required to pay any tax as a consequence of making any payment to a Shareholder, the ICAV shall be entitled to deduct from the payment to be made to the Shareholder an amount equal to the tax attributable to that payment.
- 20.9 The Directors shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this clause 20. The exercise of the powers conferred by this clause shall not be questioned or invalidated in any case on the grounds that there was insufficient evidence of direct or beneficial ownership of

Shares by any person or that the true, direct or beneficial owner of any Shares was otherwise than appeared to the Directors at the relevant date provided that the powers shall be exercised in good faith.

20.10 In addition, the Directors may provide for the mandatory redemption of Shares in other circumstances as set out in the Prospectus and/or the relevant Supplement and redeem such Shares accordingly.

21. **Investment of Assets of the ICAV**

21.1 The Directors shall subject to the restrictions and limits imposed under the Instrument of Incorporation and the ICAV Act determine the Investment objectives and policies (including the permissible forms of Investments) and restrictions applying to the ICAV and any Fund and the Assets shall be invested in accordance with the Investment objectives, policies and restrictions determined by the Directors.

21.2 With the exception of permitted Investments in unlisted securities or over-the-counter derivatives or in units of open ended collective Investment schemes or other unlisted assets, the ICAV and each Fund will only invest in those securities and derivative instruments listed or traded on a market which meets with the regulatory criteria (regulated, operates regularly, is recognised and open to the public) and which is listed in the Prospectus.

21.3 Subject to the UCITS Regulations, the Directors may decide to invest up to 100% of the Net Asset Value of a Fund in any of the Specific Investments.

21.4 Subject to the UCITS Regulations and with prior approval of the Central Bank, the ICAV may establish and wholly-own subsidiaries, which for fiscal or other reasons the Directors consider it necessary or desirable for the ICAV to incorporate or acquire or utilise for the purpose of entering into transactions or contracts and/or holding certain of the Investments or other property comprised in the assets of the relevant Fund(s). Shares issued by a wholly-owned subsidiary and all of its assets will be held by a Depositary within the State.

21.5 Subject to the UCITS Regulations, the Directors may establish a Fund whose Investment policy is to replicate a securities index which is recognised by the Central Bank and which satisfies the conditions imposed by the Central Bank, from time to time.

21.6 The Directors may decide to invest in collective Investment undertakings with which the ICAV is linked by common management or Control or by a substantial direct or indirect link.

21.7 Subject to the ICAV Act, the Directors may decide to retain, during such time or times as they think fit, all or any amount of cash of any Fund in any currency or currencies either in cash or on deposit with, or in certificates of deposit or other banking instruments issued by, the Depositary or any banker or other financial institution which is permitted to accept deposits from the Fund in any part of the world including any appointee of the ICAV or any associate or Affiliate of such appointee.

21.8 Subject to the UCITS Regulations and as and when permitted by the Central Bank, a Fund may be established with the objective of investing in another undertaking in collective Investment in transferable securities.

21.9 Subject to the Investment objectives, policies and restrictions determined by the Directors, the ICAV may acquire or utilise derivative contracts of any description under any conditions and within any limits applicable to the ICAV laid down by the Central Bank from time to time for the purposes of the ICAV Act.

22. **Appointment of Depositary**

The Directors shall subject to the prior approval of the Central Bank appoint a Depositary and shall entrust the Assets to the Depositary who shall be responsible for the safe-keeping of the Assets (including any shares or assets of a subsidiary of the ICAV) and to perform its duties prescribed by the ICAV Act and such other duties (including as may be required pursuant to the UCITS Regulations) upon such terms as the Directors may, from time to time, (with the agreement of the Depositary) determine.

23. **Appointment of sub-custodian/delegates**

The Depositary may pursuant to the Depositary Agreement, appoint sub-custodians, nominees, agents or other delegates to perform in whole or in part any of its duties or exercise any of its discretions as a Depositary, subject to and in accordance with the provisions of the UCITS Regulations. For the avoidance of doubt the Depositary may not delegate the performance of any of its fiduciary duties or discretions and its liability shall not be affected by the fact that it has entrusted to a third party some or all of the Assets in its safe-keeping.

24. **Remuneration of Depositary**

24.1 In consideration for its services as Depositary, the Depositary shall be entitled to be paid by or on behalf of the ICAV out of the property of the ICAV:

- (A) a fee of such amount specified in the Depositary Agreement; and
- (B) reasonable expenses and disbursements incurred by the Depositary in the performance of its functions and all other charges or fees expressly authorised by the Depositary Agreement;

and the Depositary shall not be obliged to account to the Shareholders or any of them for any payment received in accordance with the foregoing provisions.

25. **Retirement or replacement of Depositary and Manager**

25.1 Subject to the prior approval of the Central Bank, and in accordance with the terms of the Depositary Agreement, the Depositary may be removed or retire and a new Depositary appointed in the manner specified below.

25.2 In the event of the Depositary desiring to retire or on being removed in accordance with clause 25.1 of this Schedule, the ICAV shall with the prior approval of the Central Bank appoint a duly qualified corporation which is approved by the Central Bank to be the Depositary in place of the Depositary so retiring or being removed on or before the date on which such retirement or removal is to take effect. The ICAV shall only terminate the appointment of and the Depositary shall only be removed by the ICAV on the appointment of a successor Depositary or on the revocation of the authorisation of the ICAV by the Central Bank. If, despite attempts to appoint a new Depositary, no replacement for the Depositary has been appointed in accordance with the Central Bank UCITS Regulations and the Depositary is unwilling or unable to continue to act as such then (i) a general meeting of the ICAV shall be convened at which an ordinary

resolution to wind up or otherwise dissolve the ICAV is proposed and (ii) the appointment of the Depositary may be terminated only upon the revocation of the authorisation of the ICAV.

- 25.3 In the event that the Manager shall resign or its appointment shall otherwise terminate, the Directors shall: (i) use their best endeavours to procure that some other person approved by the Central Bank, act as Manager in accordance with the requirements of the Central Bank; and (ii) ensure the protection of Shareholders in the event of such replacement.

26. **Equalisation Payments**

- 26.1 On any allotment or issue of any Shares of any Share Class after the Initial Offer Period, if the Directors are operating an Equalisation Account in relation to the relevant Fund (but not otherwise), the Subscription Price in respect of each such Share subscribed for should include an Equalisation Payment the same to be repayable in whole or in part as is hereinafter provided.

- 26.2 In the event of an Equalisation Account being operated in respect of any Fund, all Equalisation Payments received in accordance with clause 26.4 of this Schedule, or deemed to have been received, shall be credited to the Equalisation Account in respect of the relevant Fund. Any amounts paid by way of Equalisation Payment shall be returnable in whole or in part to the payer only in the events specified in clause 26.4 of this Schedule and not otherwise.

- 26.3 The Shareholder of a Share on which an Equalisation Payment was paid or deemed to be paid on its issue shall be entitled to payment from the relevant Equalisation Account of a capital sum in the amount hereinafter provided on the payment of the first dividend thereon in respect of the same accounting period after the date of issue of such Share but prior to any redemption being made subsequent to the date of issue of such Share.

- 26.4 The capital sum payable pursuant to clause 26.3 of this Schedule shall be an amount equal to the Equalisation Payment paid or deemed to be paid on the issue of such Share or, if the Directors so think fit, a sum calculated by dividing the aggregate of all Equalisation Payments standing to the credit of the relevant Equalisation Account at the date to which the relevant dividend relates, by the number of Shares in respect of which such capital sums are payable PROVIDED that in so doing such Shares may be divided into two (2) or more groups issued within different periods of time as may be selected by the Directors in any one accounting period and the capital sum payable on each Share in each such group shall be a sum calculated by dividing the aggregate of all Equalisation Payments standing to the credit of the relevant Equalisation Account in respect of the Shares of each such group by the number of Shares in such group. Provided further that in no circumstances shall the capital sum payable in respect of any one Share pursuant to this clause exceed the amount of the dividend declared on such Share.

- 26.5 Any capital sums repaid to a Shareholder in accordance with the provisions of this clause 26 shall release the ICAV from any liability to repay to the Shareholder the Equalisation Payment paid, and such Shareholder shall accept any such capital sum in full and final satisfaction of any Equalisation Payment otherwise payable.

27. **Dealings in Shares**

- 27.1 Without prejudice as to the generality of this Instrument of Incorporation, the Investment Manager may purchase on any Dealing Day Shares of any Share Class at not less than the Subscription Price (in respect of a purchase from the ICAV) or the Redemption Price (in respect of a purchase from a Shareholder) as at the relevant Dealing Day. Any amount payable by the Investment Manager in respect of the purchase of Shares shall be paid not later than the relevant Settlement Date.
- 27.2 The Investment Manager shall be entitled in the name and on behalf of any Shareholder whose Shares are to be purchased by the Investment Manager to execute an instrument of transfer in respect of the Shares. The Investment Manager may be registered as a Shareholder in respect of such Shares.
- 27.3 Any Shares of any Fund acquired by the Investment Manager pursuant to the foregoing provisions and for the time being outstanding may be sold by the Investment Manager on the Dealing Day on which the Investment Manager acquired them or any subsequent Dealing Day in satisfaction of the whole or any part of any application for Shares of the Share Class in question. Such sale shall be effected at any price not exceeding the aggregate of the Subscription Price of Shares of the relevant Share Class as at the Dealing Day for which such application is made as at the relevant day in the case of such application plus the Subscription Charge (if any) to which the Investment Manager would be entitled under this Instrument of Incorporation and the Investment Manager shall be entitled to retain for its own use and benefit all monies received by it on such sale.
- 27.4 Subject to the provisions of this Instrument of Incorporation, the Investment Manager shall have the right on any Dealing Day, provided that the ICAV is notified on or prior to the Dealing Deadline for such Dealing Day, to surrender certificate(s) to the ICAV for cancellation of some or all of the Shares represented thereby. In respect of any such cancellation of Shares, the Investment Manager shall be entitled to receive out of the relevant Fund an amount equal to the Redemption Price that would be payable in respect of such Shares if they were redeemed as at that Dealing Day pursuant to the provisions of this Instrument of Incorporation. Any amount payable to the Investment Manager on foot of such request for cancellation shall be payable not later than the relevant Settlement Date. The right of the Investment Manager to require cancellation of any Share shall be suspended during any period when the right of Shareholders of Shares to require the redemption of those Shares is suspended pursuant to this Instrument of Incorporation.

SCHEDULE 2 : DETERMINATION OF NET ASSET VALUE

- 1.1 The Net Asset Value of any Fund (ie the value of the assets of a Fund having deducted the liabilities of that Fund therefrom) or any Shares or any Share Class shall be expressed in the currency in which the Fund or the Shares or any Share Class are denominated or in such other currency as the Directors or the Manager, as applicable, may determine, from time to time, and shall be determined, in accordance with the valuation rules set out hereafter.
- 1.2 The Net Asset Value of any Fund shall be calculated as at the Valuation Point for each Dealing Day.
- 1.3 The Net Asset Value of each Fund will be equal to the value of the Fund's total assets less its liabilities. The Net Asset Value per Share of a Fund will be calculated by dividing the Net Asset Value of the Fund by the number of Shares in the Fund then in issue or deemed to be in issue as at the Valuation Point for such Dealing Day and rounding the result mathematically to three (3) decimal places or such other number of decimal places as may be determined by the Directors from time to time.
- 1.4 A charge in respect of any performance fee payable to any Investment Manager/adviser may be included when calculating the Net Asset Value of the relevant Share Classes.
- 1.5 The Directors may on any Dealing Day where there are net subscriptions or net redemptions include a Dilution Adjustment when calculating the Net Asset Value in order to, amongst other things, cover dealing costs and preserve the value of the underlying assets of a Fund and such adjustment mechanism may operate on a quarterly or other basis as set out in the Prospectus from time to time.
- 1.6 In the event that the Shares of any Fund are further divided into Share Classes, the Net Asset Value Share Class shall be determined by nationally allocating the Net Asset Value of the Fund amongst the Share Class making such adjustments for subscriptions, redemptions, fees, dividends, accumulation or distribution of income and the expenses, liabilities or assets attributable to each such Share Class (including the gains/losses on and costs of financial instruments employed for Share Class hedging purposes, which gains/losses and costs shall accrue solely to that relevant Share Class) and any other factor differentiating the relevant Share Classes as appropriate. The Net Asset Value per Share of a Fund, or Share Class will be calculated by dividing the Net Asset Value of the Fund or Share Class as appropriate as the number Shares in the Fund or Share Class then in issue or deemed to be in issue as at the Valuation Point for such Dealing Day and rounding the result mathematically to a maximum of three (3) decimal places as determined by the Directors or such other number of decimal places as may be determined by the Directors from time to time.
- 1.7 For the purposes of such valuation, Assets of the ICAV, shall be determined to include but are not limited to:
 - (A) all cash in hand, on deposit, or on call including any interest accrued thereon as at the relevant Valuation Point and all accounts receivable;
 - (B) all bills, demand notes, certificates of deposit, and promissory notes;

- (C) all bonds, shares, stock, securities, obligations, debentures, debenture stock, forward rate agreements, subscription rights, warrants, promissory notes, futures contracts, options, commodities, asset backed securities, mortgage backed securities, swap contracts, contracts for differences, fixed rate securities, variable and floating rate securities, securities in respect of which the return and/or redemption amount is calculated by reference to any index, price or rate, monetary and financial instruments of all kinds;
 - (D) all stock and cash dividends and cash distributions to be received by the ICAV and not yet received by it but declared to stockholders of record on a date on or before the relevant Valuation Point as at which the Net Asset Value is determined;
 - (E) all interest accrued on or before the relevant Valuation Point on any interest-bearing securities owned by the ICAV except to the extent that the same is included or reflected in, the principal value of such security;
 - (F) all other Investments of the ICAV;
 - (G) the preliminary expenses incurred in establishing the ICAV which are payable by the ICAV and which may include the cost of issuing, distributing, marketing and promoting Shares of the ICAV insofar as the same have not been written off; and
 - (H) all other Assets of the ICAV of every kind and nature including prepaid expenses as valued and defined from time to time by the Directors.
- 1.8 The Directors shall be entitled to determine in relation to any preliminary costs, charges, fees and expenses that the same may be amortised over such period as they think fit.
- 1.9 The Assets and liabilities of a Fund will be valued as follows:
- (A) assets listed or traded on a recognised exchange for which market quotations are readily available shall be valued at the closing or last known market price which for the purposes of the ICAV shall be understood to mean the last traded price. Where a security is listed or dealt in on more than one recognised exchange, the relevant exchange or market shall be the principal or main stock exchange or market on which the security is listed or dealt on or the exchange or market which the Investment Manager determines provides the fairest criteria in determining a value for the relevant Investment. Assets listed or traded on a recognised exchange, but acquired or traded at a premium or at a discount outside or off the relevant exchange or market may be valued taking into account the level of premium or discount at the Valuation Point provided that the Depositary shall be satisfied that the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security.
 - (B) the value of any Investment which is not quoted, listed or dealt in on a recognised exchange, or which is so quoted, listed or dealt but for which no such quotation or value is available, or the available quotation or value is not representative of the fair market value, shall be the probable realisation value as estimated with care and good faith by (i) the Manager or (ii) a competent person, firm or corporation (including the Investment Manager) selected by the

Manager and approved for the purpose by the Depositary or (iii) any other means provided that the value is approved by the Depositary. Where reliable market quotations are not available for fixed income securities, the value of such securities may be determined using matrix methodology compiled by the Manager or competent person (as approved by the Depositary) whereby such securities are valued by reference to the valuation of other securities which are comparable in rating, yield, due date and other characteristics.

- (C) cash (in hand or on deposit) will be valued at its nominal/face value plus accrued interest or less debit interest, where applicable, to the end of the relevant day on which the Valuation Point occurs.
- (D) notwithstanding paragraph (A) above, units in collective Investment schemes shall be valued at the latest available Net Asset Value per unit or latest bid price as published by the relevant collective Investment scheme or, if listed or traded on a recognised exchange, in accordance with (A) above.
- (E) exchange-traded derivative instruments will be valued based on the settlement price as determined by the market where the instrument is traded. If such settlement price is not available, such value shall be calculated in accordance with (B) above.
- (F) notwithstanding the provisions of paragraphs (A) to (E) above:
 - (1) the Manager or its delegate shall, at their discretion in relation to any particular Fund which is a short-term money market fund, have in place an escalation procedure to ensure that any material discrepancy between the market value and the amortised cost value of a money market instrument is brought to the attention of the Investment Manager or a review of the amortised cost valuation vis-a-vis market valuation will be carried out in accordance with the requirements of the Central Bank.
 - (2) where it is not the intention or objective of the Manager to apply amortised cost valuation to the portfolio of the Fund as a whole, a money market instrument within such a portfolio shall only be valued on an amortised basis if the money market instrument has a residual maturity of less than three (3) months and does not have any specific sensitivity to market parameters, including credit risk.
- (G) notwithstanding the generality of the foregoing, the Manager may with the approval of the Depositary adjust the value of any Investment if they consider that such adjustment is required to reflect the fair value in the context of currency, marketability, dealing costs and/or such other considerations which are deemed relevant. The rationale for adjusting the value must be clearly documented.
- (H) if the Manager deems it necessary, a Specific Investment may be valued under an alternative method of valuation approved by the Depositary and the rationale/methodologies used must be clearly documented.

Any value expressed otherwise than in the base currency of the relevant Fund shall be converted into the base currency of the relevant Fund at the prevailing exchange rate which the Directors or their delegate shall determine to be appropriate.

- 1.10 Notwithstanding the foregoing, where at any Valuation Point any Asset of the ICAV has been realised or contracted to be realised there shall be included in the Assets of the ICAV in place of such Asset the net amount receivable by the ICAV in respect thereof, provided that if such amount is not then known exactly then its value shall be the net amount estimated by the Directors as receivable by the ICAV. If the net amount receivable is not payable until some future time after the Valuation Point in question the Directors shall make such allowance as they consider appropriate to reflect the true current value thereof as at the relevant Valuation Point.
- 1.11 For the purposes of this Schedule:
- (A) monies payable to the ICAV in respect of the allotment of Shares shall be deemed to be an Asset of the ICAV as of the time at which such Shares are deemed to be in issue in accordance with clause 3.2 of Schedule 1;
 - (B) monies payable by the ICAV as a result of the cancellation of allotments or on the compulsory redemption or transfer of Shares or on redemption of Shares shall be deemed to be a liability of the ICAV from the time at which such Shares are deemed to cease to be in issue in accordance with clause 3.2 or clause 13.3 of Schedule 1;
 - (C) monies due to be transferred as a result of an exchange of Shares to another Share Class pursuant to an Exchange Notice shall be deemed to be a liability of the original Share Class and an Asset of the new Share Class immediately after the Valuation Point for the Dealing Day on which the Exchange Notice is received or deemed to be received in accordance with clause 10 of Schedule 1.
- 1.12 Where the current price of an Investment is quoted ex any dividend (including stock dividend), interest or other rights to which the relevant Fund is entitled but such dividend, interest or the property to which such rights relate has not been received and is not taken into account under any other provisions of this Schedule 2, the amount of such dividend, interest, property or cash shall be treated as an Asset of the relevant Fund.
- 1.13 For the purposes of ascertaining or obtaining any price, quotation, rate or other value referred to in this Schedule 2 for use in determining the value of any Asset, the Directors shall be entitled to use the services of any recognised information or pricing service.
- 1.14 Any valuations made pursuant hereto shall be binding on all persons.
- 1.15 The liabilities of the ICAV and where the context so admits or requires any Fund shall be deemed without limitation to include:
- (A) the costs of dealing in the Assets of the ICAV;
 - (B) interest incurred in effecting, or varying the terms of, borrowings;
 - (C) all administrative expenses payable and/or accrued;
 - (D) any costs incurred in respect of meetings of Shareholders;
 - (E) costs incurred in respect of the establishment and maintenance of the Register;

- (F) the audit fees and expenses of the Auditor;
- (G) costs incurred in respect of the distribution of income to Shareholders;
- (H) costs incurred in respect of the preparation and publication of prices of Shares and of prospectuses, annual and interim reports and financial statements;
- (I) regulatory, legal and other professional fees and expenses incurred in connection with the business of the ICAV including for the avoidance of doubt those incurred in connection with the termination of a sub-fund, winding up and/or liquidation of the ICAV;
- (J) preliminary expenses including without limitation any costs and expenses incurred in respect of the formation of the ICAV and the initial offer of Shares which may be amortised over such period or periods as the Directors may determine;
- (K) taxation and duty payable by the ICAV in respect of the Assets of the ICAV including any dealings in Shares or Assets;
- (L) costs and expenses incurred in modifying the Instrument of Incorporation and in respect of any agreement entered into by or in relation to the ICAV from time to time.
- (M) unless otherwise agreed fees, expenses and disbursements of the Depositary and any sub-custodians, the Manager, the Investment Manager/adviser, the administrator, and any other appointees of the ICAV including where appropriate any performance fees payable;
- (N) secretarial fees and all costs incurred by the ICAV in complying with statutory requirements imposed upon it;
- (O) Directors' fees and expenses;
- (P) any fees of any regulatory authority in a country or territory outside Ireland and, if applicable, any fees levied by the Central Bank;
- (Q) the fees and expenses including overheads, administrative costs, expenses and commissions incurred by any distributor appointed to market and distribute the Shares;
- (R) the fees and expenses of any paying agent or representative appointed in another jurisdiction in compliance with the law or other requirements of that jurisdiction;
- (S) all costs and expenses (including copyright expenses) incurred in relation to the marketing and promotion of the ICAV and the sale of the Shares;
- (T) any amount payable under indemnity provisions contained in the Instrument of Incorporation or any agreement with any appointee of the ICAV;
- (U) all sums payable in respect of any policy of insurance taken out by the ICAV on behalf of the Directors in respect of Directors' and officers' liability insurance cover;

- (V) all known liabilities including the amount of any unpaid dividend declared upon the Shares or for the payment of moneys and other outstanding payments on Shares previously redeemed;
 - (W) legal and other professional fees and expenses incurred in any proceedings instituted or defended to enforce, protect, safeguard, defend or recover the rights or Assets of the ICAV;
 - (X) in the event of a merger between a Fund and any other fund whereby a Fund receives the assets and liabilities of another fund as a result of the merger, if applicable, the merging fund's unamortised formation expenses which are transferred as part of the merger and which may be amortised over such period or periods as the Directors may determine;
 - (Y) in the event of a merger between a Fund and any other fund whereby a Fund receives the assets and liabilities of a fund as a result of the merger, the liabilities of the merging fund which have been transferred to the Fund and the costs and expenses of the merger;
 - (Z) any costs incurred as a result of periodic updates of the Prospectus, Supplements, or of a change in law or the introduction of any new law (including any costs incurred as a result of compliance with any applicable code, whether or not having the force of law);
 - (AA) all other liabilities of the ICAV of whatsoever kind and nature including an appropriate provision for taxes (other than taxes taken into account as Duties and Charges) and contingent liabilities as determined by the Directors, from time to time.
- 1.16 In determining the amount of such liabilities, the Directors may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period.
- 1.17 The Directors may at their discretion apply to the Net Asset Value of a Fund a sum representing a provision for Duties and Charges relating to the acquisition and disposal of Investments of the Fund.
- 1.18 Subject to the provisions of this Instrument of Incorporation and the requirements of the Central Bank, the Directors may determine that certain fees and expenses incurred by the ICAV and its Funds including, without limitation and management/Investment management fees and expenses (including any performance fee payable) will be charged to capital. The maximum fee that may be charged by the Investment Manager (as detailed within the Prospectus) shall not be increased without approval of the Shareholders of the relevant Fund of the ICAV on the basis of a simple majority of votes cast in a general meeting or with the prior written approval of all Shareholders of the relevant Fund in accordance with this Instrument of Incorporation. The ICAV shall provide Shareholders with reasonable notice in the event of an increase of the maximum fee payable to the Manager/Investment Manager. Notice given for this purpose must be sufficient to enable a Shareholder to redeem some or all of the Shareholder's Shares prior to the implementation of the proposed increase.
- 1.19 For the avoidance of doubt, fees and expenses may be charged to capital.

Names and Addresses of Subscribers

Jerry McGarran

Simmons & Simmons Subscriber One Limited

Jerry McGarran

Simmons & Simmons Subscriber Two Limited

Signature in writing of the above subscribers, attested by witness as provided for below:

Dated the 2nd day of August 2023

Witness to the above Signatures:

Signature: *Tim Murphy*

Name: Timothy Murphy

Address: Simmons & Simmons

Waterways House

Grand Canal

Dublin 2, Ireland