

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

**AND**

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

**AN IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE**

**HEPTAGON FUND ICAV**

**REGISTRATION NUMBER: C67289**

**AN INVESTMENT COMPANY WITH VARIABLE CAPITAL ESTABLISHED AS AN OPEN- ENDED  
UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN FUNDS**

## **INSTRUMENT OF INCORPORATION**

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Registered 1 October 2021

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**(adapted by special resolution on 27 August 2021)**



3rd Floor  
Waterways House  
Grand Canal Quay  
Dublin 2  
Ireland

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

**INSTRUMENT OF INCORPORATION**

**OF**

**HEPTAGON FUND ICAV**

**C67289**

**AN OPEN-ENDED UMBRELLA SCHEME WITH SEGREGATED LIABILITY BETWEEN FUNDS**

1. The name of the ICAV is **Heptagon Fund ICAV**.
2. The ICAV is a Collective Asset-management Vehicle with variable capital segregated liability between Funds.
3. 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 European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011 (Statutory Instrument No. 352 of 2011) as amended, consolidated or substituted from time to time ("the Regulations") of capital raised from the public and giving members the benefit of the results of the management of its Funds. The ICAV operates on the principle of risk spreading. The ICAV may take any measures and carry out any operations which it may deem useful to the accomplishment and development of its purpose to the full extent permitted by the Regulations including the powers listed hereafter. The ICAV may not alter its objects or powers in any way which would result in it ceasing to qualify as an Undertaking for Collective Investment in Transferable Securities under the Regulations.
4. The powers of the ICAV to attain the sole object in Clause 3.00 above are:-
  - (a) To carry on the business of an investment company and for that purpose to acquire, dispose of, invest or participate in and hold either in the name of the ICAV or in that of any nominee, by way of investment or otherwise shares, stocks, warrants, debentures, debenture stock, loan stock bonds, notes, obligations, certificates of deposit, and other instruments creating or acknowledging indebtedness issued by or on behalf of any body corporate, mutual body, government or local authority, treasury bills, trade bills, bank acceptances, bills of exchange, money market instruments, fixed rate securities, variable or floating rate securities, securities in respect of which the return and/or any redemption amount is calculated by reference to any index, price or rate, commercial paper, mortgage or asset backed securities, promissory notes, obligations and stocks, shares, securities and financial instruments of any kind created, issued or guaranteed by any government, sovereign ruler, commissioners, public body or authority, trust, municipal, local, supranational authority agency or division thereof or otherwise in any part of the world or by any bank, financial institution, association, partnership or company, unit trust scheme, mutual fund or collective investment scheme whether with limited or unlimited liability wherever incorporated or carrying on business, policies of assurance and insurance, domestic and foreign currency and any present or future rights or interests to or in any of the foregoing 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 advance, deposit or lend securities and/or property (being those items which the ICAV is empowered to invest or otherwise deal in pursuant to Clause 4.00 (a) above) 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 acquire and dispose of any such shares (including its own shares), assets or property specified in Clause 4.00 (a) by original subscription, contract, tender, purchase, exchange, transfer, assignment, participation whether in syndicates or otherwise, and whether or not fully paid up and whether or not payment is to be made at the time of issue or on a delayed delivery basis and to subscribe for the same, either conditionally or otherwise, subject to such terms and conditions (if any) as may be thought fit, to enter into underwriting and similar contracts with respect thereto and to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof;
- (d) To employ, utilise, invest in, acquire or dispose of derivative instruments and techniques of all kinds for the efficient management of the ICAV's assets as may be permitted by the Central Bank UCITS Regulations and in particular, without prejudice to the generality of the foregoing, to enter into, accept, issue write and otherwise deal with sale and repurchase and reverse repurchase agreements, futures contracts of any type, options, forwards, warrants, 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, synthetic agreements for foreign exchange, range forward contracts, break forward contracts, participating forward contracts, currency, interest rate or asset swaps, swaptions, collars, floors and caps, contracts for differences, convertible bonds and any foreign exchange or interest rate hedging and investment arrangements and such other instruments as are similar to or derived from any of the foregoing, whether for the purpose of making a profit or avoiding a loss or managing a currency or interest rate exposure or any other exposure or for any other purpose;
- (e) For the purposes only and under the conditions specified in the Regulations, to establish or acquire any wholly owned subsidiary or subsidiaries of the ICAV for the benefit of the ICAV as a whole or one or more sub-funds established or to be established by the ICAV (the investments, assets and shares of which are held by the Depositary or sub-custodian appointed by the Depositary) with the prior approval of the Central Bank and to capitalise any such subsidiary in any manner as the Directors of the ICAV may from time to time consider appropriate including by way of share capital, loan or otherwise;
- (f) To exercise and enforce all rights and powers conferred by or incidental to the ownership of any shares, stock, obligations, bonds, notes, securities or instruments held, dealt or otherwise utilised by the ICAV;

- (g) To sell or dispose of the undertaking of the ICAV or any part thereof for such consideration as the ICAV may think fit, including without limitation shares, debentures, or securities of any other company;
- (h) To carry on the business of an investment company and to invest the funds of the ICAV in or upon or otherwise acquire hold and deal in securities and investments of every kind;
- (i) To make, draw, accept, endorse, negotiate, issue, discount, and otherwise deal with debentures, bonds or other obligations, promissory notes, bills of exchange, cheques, letters of credit, circular notes, and other mercantile instruments;
- (j) To borrow or raise or secure the payment of money, in such a manner as the ICAV shall think fit, and in particular (but without prejudice to the generality of the foregoing) by the issue of debentures, debentures stocks, bonds, obligations and securities of all kinds, either perpetual or terminable and either redeemable or otherwise and to secure the repayment of any money borrowed, raised or owing by trust deed, mortgage, charge, or lien upon the whole or any part of the ICAV's undertaking, property or assets (whether present or future) including its uncalled capital, and also by similar trust deed, mortgage, charge or lien to secure and guarantee the performance by the ICAV of any obligation or liability it may undertake;
- (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 (both present and future) and uncalled capital of the ICAV, or by indemnity or undertaking, or by any one or more of such methods, the performance of the obligations of, and the repayment or payment of the principal amounts of and premiums, interest and dividends on any security, indebtedness or obligations of the ICAV;
- (l) To acquire by purchase, exchange, lease, fee farm grant or otherwise, either for an estate in fee simple or for any lesser estate or other estate or interest, whether immediate or reversionary, and whether vested or contingent, any lands, tenements or hereditaments of any tenure, whether subject or not to any charges or encumbrances which are essential for the direct pursuit of its business;
- (m) 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 object of the ICAV or any of them;
- (n) To amalgamate or enter into partnership or into any arrangement for sharing profits, union of interest, joint venture, reciprocal concession, co-operation or otherwise with any person or company 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 any such person or company, and to subsidise or otherwise assist any such person or company;

- (o) To promote any company, syndicate or partnership of any kind in any part of the world for the purpose of acquiring all or any of the property, rights or liabilities of the ICAV, or of undertaking any business or operations which may appear likely to assist or benefit the ICAV or to enhance the value of or render more profitable any property, assets or business of the ICAV, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV and to pay all the expenses of or incidental to such promotion and to establish subsidiary companies for any of the foregoing purposes;
- (p) To promote and aid in promoting, constitute, form or organise any company or companies, syndicates or partnerships of all kinds in any part of the world and to subscribe for shares or participations 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;
- (q) 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;
- (r) To the extent permitted by law undertake the office of administrator, committee, manager, secretary, registrar, attorney, delegate, substitute or treasurer and to perform and discharge or contract with any person or company to discharge, the duties and functions incident thereto;
- (s) To facilitate and encourage the creation, issue or conversion of debentures, debenture stock, bonds, obligations, shares, stocks and securities, and to act as trustees in connection with any such securities and to take part in the conversion of business concerns and undertakings into companies;
- (t) To constitute any trusts with a view to the issue of preferred and deferred or any other special stocks or securities based on or representing any shares, stocks or other assets specifically appropriated for the purposes of any such trust, and to settle and regulate, and if thought fit, to undertake and execute any such trusts, and to issue, dispose of or hold any such preferred, deferred or other special stocks or securities;
- (u) To accumulate capital for any of the purposes of the ICAV, and to appropriate any of the ICAV's assets to specific purposes, either conditionally or unconditionally and to admit any class or section of those who have any dealings with the ICAV to any share in the profits thereof or in the profits of any particular branch of the ICAV's business, or to any other special rights, privileges, advantages or benefits;
- (v) To reduce the capital of the ICAV in any manner permitted by law;
- (w) To create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the ICAV, or for depreciation of works or stock, or any other purpose of the ICAV;

- (x) To create, issue, make, draw, accept and negotiate redeemable debentures or bonds or other obligations, bills of exchange, promissory notes or other negotiable instruments;
- (y) 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 capable of directly or indirectly benefiting the ICAV or of enhancing the value of or rendering profitable any of the ICAV's properties or rights;
- (z) 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;
- (aa) To distribute either upon a distribution of assets or division of profits among the members of the ICAV in kind any property of the ICAV, and in particular any shares, debentures or securities of other companies belonging to the ICAV or of which the ICAV may have the power of disposing;
- (bb) To remunerate any person, firm or company rendering services to the ICAV whether by cash payment or by the allotment of shares or securities of the ICAV credited as paid up in full or in part or otherwise;
- (cc) 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 consideration therefor, any shares, stocks, debentures, securities or obligations of or interest in any other company;
- (dd) 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 persons 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;
- (ee) To procure the ICAV or its share capital to be registered, authorised or recognised with any body or association in any foreign country, colony, dependency, municipality or place;
- (ff) To the extent permitted by law to obtain and hold, either alone or jointly with any person or company, insurance cover in respect of any risk of the ICAV and any persons who are or were at any time its directors, officers, employees and agents and to pay any premium thereon;
- (gg) To pay out of the funds of the ICAV all or any expenses which the ICAV may lawfully pay incidental to or incurred in connection with the formation, registration, advertising and incorporation of the ICAV and the raising of its share

capital, or to contract with any person or company to pay the same, and (subject to the provisions of any statute for the time being in force) to pay commissions to brokers and others for underwriting, placing, selling or guaranteeing or procuring the underwriting, placing, selling of or guaranteeing the subscription for any shares or securities of the ICAV and any other expenses which the Directors consider to be in the nature of such expenses and to amortise such expenses over such period or periods as the Directors may determine;

- (hh) 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;
- (ii) To do all or any of the above things in any part of the world, and as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, attorneys, sub-contractors or otherwise and either alone or in partnership or conjunction with any person or company, and to contract for the carrying on of any operation connected with the ICAV's business by any person or company;
- (jj) To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them;
- (kk) Each of the ancillary objects and powers of the ICAV (whether enumerated or not) is to be interpreted and exercised as ancillary to the main object but separate from and ranking equally to any other ancillary power;

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

- 5. The liability of the members is limited.
- 6.
  - (a) The share capital of the ICAV shall be equal to the value for the time being of the issued share capital of the ICAV; and
  - (b) The initial authorised share capital of the ICAV is Euro 2 divided into 2 redeemable non-participating shares of One Euro (€1) each and 500,000,000,000 shares of no par value. The capital may be divided into different classes of shares with any restrictions or preferential, deferred or special rights or privileges attached thereto, and from time to time may be varied so far as may be necessary to give effect to any such restrictions or rights or privileges. The minimum issued share capital of the ICAV shall be 2 redeemable non-participating shares of One Euro (€1) each. The maximum issued share capital of the ICAV is 2 redeemable non-participating shares of One Euro (€1) each and 500,000,000,000 shares of no par value.
- 7. This Instrument shall not be amended without the prior approval of the Central Bank and in accordance with the requirements of section 31 of the Act.

## **INSTRUMENT OF INCORPORATION OF HEPTAGON FUND ICAV**

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1.00           **DEFINITIONS**

1.01           In this Instrument the following words and expressions shall have the following



meanings, if not inconsistent with the subject or context:

"Accounting Date"	means 30 September in each year or such other date as the Directors may from time to time decide;
"Accounting Period"	means a period ending on the Accounting Date and commencing, in the case of the first such period on the date of incorporation of the ICAV and, in subsequent such periods, on the day following expiry of the last Accounting Period;
"Act"	means the Irish Collective Asset Management Vehicles Act and every amendment or re-enactment of the same;
"Administration Agreement"	means any agreement for the time being subsisting between the ICAV, the Manager and the Administrator relating to the appointment and duties of the Administrator as amended from time to time subject to the requirements of the Central Bank;
"Administrator"	means any person, firm or corporation appointed and for the time being acting as administrator of the ICAV's affairs;
"Associate"	in relation to a corporation means a holding company or a subsidiary of such corporation or a subsidiary of the holding company of such corporation and in relation to an individual or firm or other unincorporated body, means any corporation directly or indirectly controlled by such person;
"Auditors"	means the auditors for the time being of the ICAV;
"Base Currency"	means, in relation to any Class of Shares or any Fund, such currency as specified in the relevant Supplement relating to that Class or Fund;
"Business Day"	means, in relation to a Fund, such day or days as specified in the relevant Supplement for that Fund;
"Central Bank"	means the Central Bank of Ireland or any successor thereto;
"Central Bank UCITS Regulations"	means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1) (Undertakings for Collective Investment in Transferrable Securities) Regulations 2015 (as amended consolidated or substituted from time to time) and any regulations or notices issued by the Central Bank pursuant thereto for the time being in force;
"Class"	means a particular division of Shares in a Fund, as determined by the Directors pursuant to Clause 4.05 hereof;

“Clear Days”	in relation to a period of notice, means the 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;
“CRS”	means the Standard for Automatic Exchange of Financial Account Information approved on 15 July 2014 by the Council of the Organisation for Economic Cooperation and Development, also known as the Common Reporting Standard, and any bilateral or multilateral competent authority agreements, intergovernmental agreements and treaties, laws, regulations, official guidance or other instrument facilitating the implementation thereof and any law implementing the Common Reporting Standard;
“Depository”	means any corporation appointed and for the time being acting as depository of all of the assets of the ICAV;
“Depository Agreement”	means any agreement for the time being subsisting between the ICAV, the Manager and the Depository relating to the appointment and duties of the Depository as amended from time to time subject to the requirements of the Central Bank;
"Dealing Day"	means, in relation to a Fund, such day or days as shall be specified in the relevant Supplement for that Fund;
"Directors"	means the directors of the ICAV for the time being and any duly authorised committee thereof;
“Distributor”	means one or more persons, firms or corporations appointed and for the time being acting as distributor of Shares in the ICAV;
“Distribution Agreement”	means any agreement for the time being subsisting between the ICAV, the Manager and any Distributor relating to the appointment and duties of the Distributor;
“Duties and Charges”	means all stamp and other duties, taxes, governmental charges, valuation fees, property management fees, agents fees, brokerage fees, bank charges, transfer fees, registration fees and other charges whether in respect of the constitution or increase of the assets or the creation, exchange, sale purchase or transfer of shares or the purchase or sale or proposed purchase or sale of investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation, but not including commission payable on the issue of Shares;

“Electronic Communication”	the meaning given to that word in the Electronic Commerce Act, 2000;
“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 United States (as amended, consolidated or supplemented from time to time), including any regulations issued pursuant thereto;
"Fund"	means a sub-fund of the ICAV established by the Directors from time to time with the prior approval of the Central Bank representing the designation by the Directors of a particular class of Shares as a sub-fund the proceeds of issue of which are pooled separately and invested in accordance with the investment objective and policies applicable to such sub-fund;
“Hedged Currency Share Class”	means a class in respect of which a Fund will conduct currency hedging transactions, the benefit and costs of which will accrue solely to shareholders of that class;
“ICAV”	means Heptagon Fund ICAV being the entity whose name appears on the heading to the Instrument, being a body registered as such under the Act.
“Initial Price”	means the initial price payable for a Share as specified in the relevant Supplement for each Fund;
“Instrument”	means this instrument of incorporation as amended from time to time with the prior approval of the Central Bank and for the time being in force;
“Investment or Investments”	means any of the assets including without limitation transferable securities and liquid financial assets which may be acquired or held or disposed of by the ICAV and techniques and instruments relating to transferable securities employed by the ICAV for efficient portfolio management as more particularly described in the Prospectus;
“Investment Manager”	means one or more persons, firms or corporations appointed in accordance with the Central Bank requirements and for the time being providing investment management or advisory services in relation to the management of the ICAV's Investments;
“Investment Management Agreement”	means any agreement for the time being subsisting between the ICAV, the Investment Manager and the

	Manager relating to the appointment and duties of the Investment Manager as amended from time to time subject to the requirements of the Central Bank;
“In writing or written”	means written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing including any means of Electronic Communication which may be processed to produce a legible text or partly one and partly another;
“Irish Stock Exchange”	means the Irish Stock Exchange plc;
“Manager”	means any person firm or corporation appointed and for the time being acting as manager of the ICAV's affairs;
“Management Agreement”	means any agreement for the time being subsisting between the ICAV and the Manager relating to the appointment and duties of the Manager as amended from time to time subject to the requirements of the Central Bank;
“Member”	means a Shareholder or a person who is registered as the holder of one or more Non-Participating Shares in the ICAV;
“Member State”	means a member state of the European Union;
“Minimum Holding”	means in respect of each Fund or Class, means the minimum number or value of Shares which must be held by Shareholders as may be specified in the relevant Fund or Class Supplement;
“Minimum Subscription”	means in respect of each Fund or Class, the minimum subscription for Shares as may be specified in the relevant Fund or Class Supplement;
“Month”	means calendar month;
“Net Asset Value”	means the net asset value of a Fund or attributable to a Class (as appropriate) calculated pursuant to Clause 14.02 hereof;
“Net Asset Value per Share”	means the net asset value of a Share calculated pursuant to Clause 14.04 hereof;
“Non-Participating Share”	means a redeemable non-participating share in the capital of the ICAV issued in accordance with and having the rights provided for in this Instrument;
“OECD Member Country”	means Organisation for Economic Co-operation and Development comprising of Australia, Austria, Belgium

Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Israel, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States and any other country for the time being which is a member thereof;

“Office”	means the registered office of the ICAV;
“Ordinary Resolution”	means a resolution of the ICAV or of the Shareholders of a particular Fund or Class in general meeting passed by a simple majority of the votes cast;
“Organisational Expenses”	means the organisational expenses incurred by the ICAV in the formation and establishment of the ICAV or a Fund or Class and the raising of its share capital, including without limitation the fees of the professional advisers of the ICAV, commissions payable to brokers and others for underwriting placing, selling or guaranteeing or procuring the underwriting, placing, selling of or guaranteeing the subscription for any shares or securities of the ICAV and any costs or expenses (whether incurred directly by the ICAV or not) incurred in connection therewith or with any subsequent application for a listing or quotation of any of the Shares in the ICAV on any Recognised Market or any application for registration, authorisation or recognition of the ICAV in any country and any other expenses which the Directors consider to be in the nature of such expenses;
“Paid Up”	means the amount paid up as capital on any Share including any amount credited as paid up;
“Prospectus”	means the prospectus issued by the ICAV from time to time and any Supplement thereto;
“Recognised Market”	means any stock exchange or market set out in the Prospectus;
“Redemption Price”	means the price at which Shares of a Fund or Class shall be redeemed pursuant to this Instrument;
“Register”	means the register maintained by or on behalf of the ICAV in which are listed either the names of Shareholders of the ICAV;
“Regulations”	means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011 (S.I. No. 352 of 2011) (as amended consolidated or substituted from time to time and the

	Central Bank UCITS Regulations and any regulations or notices issued by the Central Bank pursuant thereto for the time being in force;
“Seal”	means the common seal of the ICAV kept by the ICAV in accordance with the provisions of section 33 of the Act;
“Secretary”	means any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV;
“Securities Act”	means the United States Securities Act of 1933, as amended;
“Share”	means a participating share in the capital of the ICAV, designated in one or more Funds or Classes, issued in accordance with this Instrument and with the rights provided for under this Instrument;
“Shareholder”	means a person who is registered as the holder of Shares in the Register of Shareholders for the time being kept by or on behalf of the ICAV;
“Signed”	means a signature, mark or representation of a signature, affixed by mechanical or other means;
“Special Resolution”	means a special resolution of the ICAV or the Shareholders of a Fund or Class in general meeting passed in accordance with the Act;
“Standing Redemption and Payment Instructions”	means at instructions specifying a named and numbered account one bank to which the proceeds of the redemption or sale of any Shares are to be paid;
“Subscription Price”	means the price at which Shares of a Fund or Class shall be issued pursuant to Clause 9.00 hereof;
“Supplement”	means a Supplement to the Prospectus setting out information specific to a Fund and/or Class;
"UCITS"	means an undertaking for collective investment in transferable securities within the meaning of the Regulations;
“United States”	means the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction;
“US Person”	means a US Person as defined in the Prospectus;
“Valuation Day”	means, in relation to a Fund, the Business Day on which the Net Asset Value will be calculated by the Administrator for each Dealing Day, as shall be specified

in the relevant Supplement for each Fund.

“Valuation Point” means such time as shall be specified in the relevant Supplement for each Fund.

In this Instrument, unless otherwise specified, all references to “billion” are to one thousand million, to “€” or “Euro” are to the currency introduced at the start of the third stage of the economic monetary union pursuant to the Treaty of Rome dated 25 March, 1957 (as amended) establishing the European Union, to “£” or “sterling” are to Pounds Sterling, and to “US Dollars”, “USD”, “US\$” or “cents” are to United States Dollars or cents.

1.02 In this Instrument, unless there be something in the subject or context inconsistent with such construction:-

- (a) words importing the singular number shall include the plural number and vice versa;
- (b) words importing the masculine gender only shall include the feminine gender;
- (c) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
- (d) the word "may" shall be construed as permissive and the word "shall" shall be construed as imperative;
- (e) all references to a time of day or night shall be to Irish time;
- (f) references to enactments and to sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force; and
- (g) headings and captions in this Instrument are inserted for convenience of reference only and shall not affect the construction or interpretation hereof.

1.03 Where for the purposes of this Instrument or for any other purpose any amount in one currency is required to be converted into another currency the Directors may effect such conversion using such rates as are quoted by such banks as the Directors may deem appropriate at the relevant time except where otherwise in this Instrument specifically provided.

## 2.00 **PRELIMINARY**

2.01 The Organisational Expenses payable by the ICAV may in the accounts of the ICAV be carried forward and amortised in such manner and over such period as the Directors may determine and the Directors may at any time and from time to time determine to lengthen or shorten any such period. Any Organisational Expenses attributable to one or more Funds shall be allocated between the relevant Funds pro rata and shall be subject to such adjustment following the establishment of new Funds as the Directors may determine.

2.02 The ICAV and/or each Fund and, where expenses or liabilities are attributable

specifically to a Class, that Class shall also bear the following expenses and liabilities or, where appropriate, its pro rata share thereof subject to adjustment to take account of expenses and/or liabilities attributable to one or more Classes:-

- (a) all fees and expenses payable to or incurred by the ICAV, the Manager, the Administrator, the Depositary, any investment manager, or adviser or distributor appointed by or on behalf of the ICAV or with respect to any Fund or Class and their respective delegates;
- (b) Duties and Charges, all taxes or government duties which may be payable on the assets, income or expenses of the ICAV and bank charges and commissions incurred by or on behalf of the ICAV in the course of its business;
- (c) all fees and expenses of the Directors;
- (d) the remuneration and expenses of any paying agent or representative or correspondent bank appointed in any jurisdiction in compliance with the law or other requirements of that jurisdiction;
- (e) the remuneration, commissions and expenses incurred or payable in the marketing, promotion and distribution of Shares including without limitation commissions payable to any person in consideration of his subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any Shares in the ICAV and the costs and expenses of preparation and distribution of all marketing material and advertisements;
- (f) all fees and expenses connected with the preparation, publication and supply of information to Shareholders and the public including, without limitation, the cost of preparing, translating, printing, distributing the Prospectus and any Supplements and any periodic updates thereof, marketing literature, the annual audited report, the half-yearly reports and any other periodic reports and the calculation, publication and circulation of the Net Asset Value per Share, certificates, confirmations of ownership and of any notices given to Shareholders in whatever manner;
- (g) all fees and expenses incurred in connection with the convening and holding of Shareholders' meetings;
- (h) all fees and expenses incurred or payable in registering and maintaining a Fund or Class registered with any and all governmental and/or rating agencies, clearance and/or settlement systems and/or any exchanges in any various countries and jurisdictions including, but not limited to, all filing and translation expenses;
- (i) all fees and expenses incurred or payable in listing and in maintaining or complying with the requirements for the listing of the Shares on the Irish Stock Exchange (or other exchange to which Shares may be admitted);
- (j) legal and other professional fees and expenses incurred by the ICAV or



by or on behalf of its delegates in any actions taken or proceedings instituted or defended to enforce, protect, safeguard, defend or recover the rights or property of the ICAV;

- (k) any amount payable under indemnity provisions contained in this Instrument or any agreement with any functionary of the ICAV other than provisions indemnifying the functionary against claims arising from negligence, fraud or wilful default;
- (l) all sums payable in respect of any policy of insurance taken out by the ICAV including, without limitation, any policy in respect of directors' and officers' liability insurance cover;
- (m) all other liabilities and contingent liabilities of the ICAV of whatsoever kind and all fees and expenses incurred in connection with the ICAV's operation and management including, without limitation, interest on borrowings, all company secretarial expenses and all Companies Registration Office filings and statutory fees;
- (n) all expenses involved in obtaining and maintaining a credit rating for the ICAV from any rating agency;
- (o) all fees and expenses of the Auditors, tax, legal and other professional advisers and company secretarial fees and any valuer or other supplier of services to the ICAV;
- (p) the costs of any amalgamation or restructuring of the ICAV or any Fund;
- (q) all other fees and all expenses incurred in connection with the ICAV's operation and management including the liquidation of the ICAV;
- (r) any statutory fees payable, including any fees payable to the Companies Registration Office, the Central Bank or to any regulatory authority in any country or territory, the costs and expenses (including legal, accountancy and other professional charges and printing costs) incurred in meeting on a continuing basis the notification, registration and other requirements of each such regulatory authority, and any other fees and expenses of representatives or facilities agents in any such other country or territory;

in each case plus any applicable value added tax.

All recurring expenses will be charged against current income or against realised and unrealised capital gains, or, if the Directors so determine, against the capital or assets of the ICAV in such manner and over such period as the Directors may from time to time decide.

2.03 The maximum investment management fee, excluding any performance related fee that may be charged by an investment manager appointed by the ICAV is five per cent of the Net Asset Value of the Shares. The maximum performance related fee that may be charged by an investment manager appointed by the ICAV is fifty per cent of the profits of the ICAV or a Fund as relevant (this fee is in addition to any investment management fee charged). Such maximum fees shall not be increased

without: (i) the prior approval of Shareholders in a Fund given on the basis of an Ordinary Resolution at a general meeting; or (ii) the prior written approval of all Shareholders in a particular Fund.

2.04 In the event that the fee disclosed in the Prospectus or Supplement is less than the maximum fee provided for in Clause 2.05, the ICAV shall not increase the fees as disclosed in the Prospectus or Supplement without: (i) the prior approval of Shareholders in a Fund given on the basis of an Ordinary Resolution at a general meeting; or (ii) the prior written approval of all Shareholders in a particular Fund; unless the Supplement also provides that a fee greater than the fee disclosed may be charged.

2.05 The ICAV shall give Shareholders of a Fund reasonable notice in the event of an increase of the maximum fee that may be charged by an investment manager appointed by the ICAV, so as to afford Shareholders the opportunity to redeem some or all of their Shares prior to the implementation of any proposed fee increase.

3.00 **MANAGER, DEPOSITARY, INVESTMENT MANAGER, ADMINISTRATOR AND DISTRIBUTOR**

3.01 (a) The ICAV, with the prior approval of the Central Bank, shall appoint a person, firm or corporation to act as Manager of the ICAV's affairs upon such terms and conditions including the right to remuneration payable by the ICAV and with such powers of delegation and such restrictions as it (with the agreement of the Manager) thinks fit.

(b) A Manager appointed by the ICAV shall be a person approved by the Central Bank and the terms of any Management Agreement shall be in accordance with the requirements of the Central Bank UCITS Regulations.

(c) In the event that the Manager shall resign or be dismissed or its appointment shall otherwise terminate, the Directors shall use their best endeavours to appoint some other person, firm or corporation, approved by the Central Bank to act as Manager in its place.

3.02 (a) Subject to the prior approval of the Central Bank the ICAV shall appoint a Depositary to be responsible for the safe custody of all the Investments of the ICAV and to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said Depositary) determine.

(b) The Depositary shall be a company approved for the purpose by the Central Bank and the terms of any Depositary Agreement shall be in accordance with the requirements of the Central Bank.

3.03 (a) The terms of appointment of any Manager may authorise the Manager to appoint (a) one or more persons, firms or corporations to act as investment manager for the purpose of managing the investment and reinvestment of the assets of the ICAV attributable to one or more Funds and (b) a person, firm or corporation to act as Administrator of the ICAV

for the purpose of administering the affairs of the ICAV and, in each case, to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said investment manager or Administrator) determine.

(b) The terms of any Investment Management Agreement and the appointment of an Investment Manager shall be in accordance with the requirements of the Central Bank UCITS Regulations.

(c) The terms of any Administration Agreement and the appointment of an Administrator shall be in accordance with the requirements of the Central Bank UCITS Regulations.

3.04 (a) The terms of appointment of any Manager may authorise the Manager to appoint one or more persons, firms or corporations to act as distributor(s) for the purpose of marketing and distributing the Shares of the ICAV and to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time (with the agreement of the said distributors) determine.

(b) The appointment of a Distributor shall be in accordance with the requirements of the Central Bank UCITS Regulations.

3.05 Any contract or agreement entered into by the ICAV with any Administrator or Depositary and any variations made after the issue of Shares to any such contract or agreement then in force shall be in accordance with the requirements of the Central Bank UCITS Regulations and (other than the initial Agreements entered into by the ICAV in accordance with the provisions of Clauses 3.01 and 3.02 above) approval by Ordinary Resolution PROVIDED THAT no such approval by Ordinary Resolution shall be required if:-

(a) the terms of any new agreement entered into on the appointment of a new Administrator or Depositary do not differ in any material respect from those in force with the former Administrator or Depositary on the termination of its appointment; or

(b) the Depositary certifies that such variation does not prejudice the interests of the Shareholders or any of them and does not relieve the Administrator or Depositary from any responsibility to the ICAV.

3.06 The terms of appointment of any Depositary may authorise such Depositary to appoint (with powers of sub-delegation) sub-custodians, nominees, agents or delegates at the expense of the ICAV or otherwise as determined by the Depositary and the ICAV.

3.07 On the appointment of any new manager, unless the Manager otherwise consents, the Directors shall request the Secretary to convene an extraordinary general meeting of Shareholders of the ICAV at which there shall be proposed a Special Resolution to change the name of the ICAV to a name not including the words "Heptagon" and otherwise in accordance with the requirements of the Central Bank UCITS Regulations. The appointment of a new Manager shall be subject to the prior approval of the Central Bank.

3.08 In the event of the Depositary desiring to retire or the ICAV desiring to remove the Depositary from office the Directors shall use their reasonable endeavours to find a corporation willing to act as depositary and subject to the prior approval of the Central Bank and Clause 3.02(b) the Directors shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary may not retire or be removed from office until the Directors shall have found a corporation willing to act as Depositary and such corporation shall have been appointed Depositary in place of the former Depositary. The appointment of a new Depositary shall be subject to the prior approval of the Central Bank.

3.09 If within a period of three months from the date on which (a) the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement and has not withdrawn notice of its intention to so retire; (b) the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement, or (c) the Depositary ceases to be qualified under Clause 3.02(b), no new Depositary has been appointed, the Directors shall instruct the Secretary to forthwith convene an extraordinary general meeting of the ICAV at which there shall be proposed an Ordinary Resolution to wind up the ICAV in accordance with the provisions of Clause 36.00. Notwithstanding anything set out above, the Depositary's appointment shall only terminate on revocation of the ICAV's authorisation by the Central Bank.

#### 4.00 **SHARE CAPITAL**

4.01 The authorised capital of the ICAV is Euro 2 divided into 2 Non-Participating Shares of One Euro (€1) each and 500,000,000,000 Shares of no par value each. The minimum issued share capital of the ICAV is 2 redeemable non-Participating Shares of One Euro (€1) each. The maximum issued share capital of the ICAV is 2 redeemable non-participating shares of One Euro (€1) each and 500,000,000,000 Shares of no par value.

4.02 Non-Participating Shares shall only be issued at par value and shall not participate in the dividends or assets attributable to Shares by the ICAV and the dividends, if any, and net assets attributable to the Non-Participating Shares shall be segregated from and shall not form part of the other assets of the ICAV and Non-Participating Shares may at the request of any of the holders thereof be purchased by the ICAV directly or indirectly out of the ICAV's assets.

4.03 The amount of the paid-up share capital of the ICAV shall at all times be equal to the Net Asset Value of the ICAV as determined in accordance with Clause 14.00 hereof.

4.04 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to issue shares in the ICAV on such terms and in such manner as they may think fit.

4.05 The Directors may, subject to this Instrument and the Act, allot and issue Shares in the ICAV to such persons on such terms and conditions and at such times and in such manner as they may think fit. The Shares shall be divided into such Funds and may be further divided into such Classes as the Directors may from time to time determine and such Funds and Classes shall have such names or designations as the Directors may from time to time determine. On or before the allotment of any Shares, the Directors shall determine the Class or Fund in which such Shares are

designated. All monies payable in respect of a Share (including without limitation, the subscription and redemption monies and dividends in respect thereof) shall be paid in the currency in which the Share is designated or in such other currency or currencies as the Directors may determine either generally or in relation to a particular Fund or Class.

- 4.06 The Directors may delegate to any duly authorised Director or officer of the ICAV, or to any duly authorised person, firm or corporation the duties of accepting the subscription for, receiving payment for, and delivering, new Shares.
- 4.07 The Directors may in their absolute discretion refuse to accept any application for Shares in the ICAV or to accept any application in whole or in part.
- 4.08 The ICAV may from time to time by Ordinary Resolution increase its capital by such amount as the resolution shall prescribe.
- 4.09 The ICAV may, by Ordinary Resolution, alter its capital by consolidating and dividing its share capital into shares of larger amount than its existing shares, subdividing its shares into shares of smaller amount than that fixed by the Instrument, or by cancelling any Shares which, at the date of such Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.
- 4.10 Subject to the Act, the ICAV may by Special Resolution from time to time reduce its share capital.
- 4.11 On any issue of Shares, the ICAV may pay any brokerage fees or commissions.
- 4.12 No person shall be recognised by the ICAV as holding any Shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Shares or (except only as this Instrument otherwise provide or as by law required) any other right in respect of any Share.

## 5.00 **CONSTITUTION, RIGHTS, ASSETS AND LIABILITIES OF THE ICAV**

- 5.01 The ICAV is an open-ended umbrella type investment company with segregated liability comprising separate Funds, which may comprise one or more Classes. The Directors may from time to time establish, with the prior approval of the Central Bank, additional Funds and/or in accordance with the requirements of the Central Bank designate additional Classes and issue Shares in such Funds or Classes.
- 5.02 The Directors may in their absolute discretion differentiate between the Shares in any Class or Fund including without limitation as to the fees payable in respect thereof, dividend policy, currency of denomination, voting rights, return of capital, use of techniques and instruments for efficient portfolio management or to provide protection against exchange risks and such Shares may have preferred, deferred or other special rights, privileges or restrictions attached thereto. The ICAV may create Hedged Currency Share Classes and unhedged Classes.
- 5.03 The rights attaching to any Class or Fund may, whether or not the ICAV is being wound up, be varied or abrogated with the consent in writing of the holders of three-fourths of the issued Shares of that Class or Fund, or with the sanction of an

Ordinary Resolution passed at a separate general meeting of the Shareholders of that Class or Fund. To every such separate general meeting the provisions of this Instrument relating to general meetings shall apply provided that the necessary quorum at any such meeting (other than an adjourned meeting) shall be Shareholders holding or representing by proxy at least one third of the issued Shares of the Fund or Class in question and, at an adjourned meeting, one Shareholder holding Shares of the Fund or Class in question or his proxy. The chairman of a general meeting of a Fund or Class or any holder of Shares of a Fund or Class present in person or by proxy at a general meeting of a Fund or Class may demand a poll.

- 5.04 The rights conferred upon the holders of the Shares of any Class or Fund issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that Class or Fund, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.
- 5.05 The assets and liabilities of the ICAV shall be allocated to each Fund in the following manner:
- (a) for each Fund, the ICAV shall keep separate records in which all transactions relating to the relevant Fund shall be recorded and to which the proceeds from the issue of Shares in each Fund and the assets and liabilities and income and expenditure attributable to each Fund shall be applied subject to the provisions of this Clause;
  - (b) any asset derived from another asset of a Fund shall be applied in the records of the relevant Fund as the asset from which it was derived and on each valuation of an asset, the increase or diminution in value thereof shall be applied to the relevant Fund;
  - (c) where the ICAV incurs a liability, which relates to any asset of a particular Fund or to any action taken in connection with an asset of a particular Fund, such liability shall be allocated to that Fund;
  - (d) in circumstances in which an asset or liability is not clearly attributable to a particular Fund or Funds, the Directors shall have the discretion to determine the basis upon which assets or liabilities shall be allocated between Funds and from time to time subject to the approval of the Depositary to vary such allocations save where the asset or liability is allocated between all Funds pro-rata to their Net Asset Value at the time of allocation;
  - (e) where hedging strategies are used in relation to a Fund or 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 the gains/losses on the costs of the relevant financial instruments will accrue solely to the relevant Class;
  - (f) the assets of each Fund shall belong exclusively to that Fund, shall be segregated from the other Funds and assets of the other Funds, shall not be used to discharge directly or indirectly, the liabilities of or claims against any other Fund and shall not be available for such purpose.

5.06 Clause 5.05 shall apply to the assets and liabilities attributable to any Class mutatis mutandis.

## 6.00 **SHARE REGISTER AND CONFIRMATIONS OF OWNERSHIP**

6.01 A Shareholder in the ICAV shall have his title to Shares evidenced by having his name, address, date of entry of membership and cessation of membership of the ICAV and the number of shares, the name of the Fund and, where applicable, Class of Shares held by him entered in the Register.

6.02 Share certificates shall not be issued. A Shareholder whose name appears in the Register shall be issued with a written confirmation of entry in the Register of the number of Shares held by him including without limitation fractions of Shares.

6.03 The Directors shall from time to time decide the denomination in which Shares of each Fund will be issued.

6.04 The ICAV shall not be bound to register more than four persons as the joint holders of any Share or Shares.

6.05 Where two or more persons are registered as the holders of any Shares they shall be deemed to hold the same as joint tenants, subject to the following:-

- (a) the joint holders of any Shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such Shares;
- (b) any one of such joint holders of Shares may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;
- (c) only the first-named of the joint holders of a Share shall be entitled to delivery of the confirmation of entry on the Register relating to such Share or to receive notices from the ICAV to attend general meetings of the ICAV. Any confirmation of entry on the Register delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
- (d) the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
- (e) for the purpose of the provisions of this Instrument, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.

6.06 The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system provided legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Instrument.

## 7.00 **DEALING DAYS**

7.01 (a) All allotments and all issues of Shares in any Fund or Class other than the initial allotment and issue of Shares, subject as provided hereinafter

with respect to payment for Shares, shall be effected or made on a Dealing Day for the relevant Fund or Class;

- (b) All redemptions of Shares in any Fund or Class shall be effected or made on a Dealing Day for the relevant Fund or Class;

provided that there shall be at least two Dealing Days in each month and in the event of any change in a Dealing Day reasonable notice thereof shall be given by the Directors to Shareholders in the relevant Fund or Class.

## 8.00 **ALLOTMENT OF SHARES**

8.01 Subject as hereinafter provided, the ICAV may on any Dealing Day on receipt by it from an applicant for Shares in a Fund or Class by such time as may from time to time be specified by the Directors of:-

- (a) an application for Shares in the relevant Fund or Class in such form as the Directors may from time to time determine;
- (b) such declarations as to the applicant's status, identity, residence and otherwise as the Directors may from time to time require; and
- (c) payment for Shares in such manner and within such usual time limits as the ICAV from time to time may specify;

issue Shares in that Fund or Class at the Subscription Price for each such Share PROVIDED THAT the Directors may, in their discretion, accept an application for processing on a Dealing Day notwithstanding that such application may have been received after the time specified from time to time by the Directors for the receipt of applications for such Dealing Day so long as such application is received on a day prior to the Valuation Day for such Dealing Day. The time for receipt of applications for Shares will be set out in the Prospectus or the relevant Supplement.

8.02 The allotment of Shares shall (unless the Directors otherwise agree) be made on terms that (unless settlement has already been effected) the applicant shall effect settlement within such a reasonable time, and in such currency or currencies as the Directors may determine to be appropriate to receive subscriptions and otherwise in the manner determined by the Directors as disclosed in the Prospectus and in the event of late settlement the applicant may be required to compensate the ICAV for the amount of any loss arising as a result (as conclusively determined by the Directors) provided always that if the Directors receive payment for Shares in a currency other than the Base Currency the Directors may convert or arrange for the conversion of such monies received into the Base Currency and shall be entitled to deduct therefrom all expenses incurred in such conversion. The Directors may, at their discretion and in accordance with Clause 9.03 hereof, allot Shares for consideration other than cash or may sell, dispose of or otherwise convert such non-cash consideration into cash and apply such non-cash consideration (net of expenses incurred in the conversion) for the purchase of Shares.

8.03 The Directors shall not be bound but shall be entitled to await the arrival of cleared funds in the Base Currency in settlement before proceeding to issue the Shares.

8.04 The ICAV may (at the option of the Directors) satisfy any application for the issue of



Shares by procuring the transfer to the applicant of fully paid Shares. In such case, references in this Instrument to issuing Shares shall where appropriate be taken as references to procuring the transfer of Shares.

- 8.05 No allotment shall be made under Clause 8.01 in respect of an application which would result in the applicant subscribing less than the Minimum Subscription or holding less than the Minimum Holding provided that the Directors may, in their discretion, waive or reduce the Minimum Subscription or Minimum Holding with respect to any Shareholder or applicant for Shares.
- 8.06 Allotment of Shares may take place provisionally notwithstanding that cleared funds or the original papers specified in sub-paragraph (a) and (b) of Clause 8.01 hereof have not been received by the ICAV or its authorised agent PROVIDED THAT if such funds and papers have not been received within such period as the Directors may determine, the Directors shall cancel any allotment made and the ICAV may charge the applicant for any loss, cost, expense or fees suffered by the ICAV as a result of such cancellation.
- 8.07 The Directors may decline to accept any application for the issue of Shares without assigning any reason therefor and may cease to offer Shares in the ICAV for allotment or subscription for a definite period or otherwise.
- 8.08 The Directors shall be entitled to issue fractions of Shares where the subscription monies received by the ICAV are insufficient to purchase an integral number of Shares, provided, however, that fractional Shares shall not carry any voting rights and the Net Asset Value of a fractional Share of any Fund or Class shall be adjusted by the ratio which such fractional Share bears to an integral Share of that Fund or Class at the time of issue and any dividend payable on such fractional Shares shall be adjusted in like manner.

9.00 **TERMS OF SUBSCRIPTION**

- 9.01 The time and terms upon which and the Subscription Price per Share at which the initial offer or placing of Shares shall be made shall be determined by the Directors.
- 9.02 (i) Any subsequent allotment or placing of a Share on any Dealing Day shall be made at a Subscription Price per Share ascertained by:-
- (a) determining the Net Asset Value per Share as at the Valuation Point for the relevant Dealing Day in accordance with Clause 14.00 of this Instrument;
  - (b) adding thereto a provision for Duties and Charges, if the Directors so determine;
  - (c) in the event of subscription applications exceeding redemption requests for the relevant Fund on any Dealing Day and if the Directors so determine, adding thereto such provision representing an anti-dilution levy to provide for dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors may determine; and

- (d) rounding the resulting total to such number of decimal places as the Directors may determine as disclosed in the Prospectus.
- (ii) A sales charge not exceeding five per cent (5%) of the Net Asset Value per Share may be added to the Subscription Price for the absolute use and benefit of the ICAV or, if the ICAV has appointed a Manager, the Manager, or as the ICAV or, if the ICAV has appointed a Manager, the Manager may direct either upon the initial issue of Shares or on a contingent deferred basis and the Directors may at their discretion waive or permit the Directors to waive, either wholly or partially, such sales charge or differentiate between Shareholders or applicants for Shares as to the amount of such sales charge, if any, within the permitted limit.
- (iii) For the purpose of calculating the number of Shares in issue in a particular Fund, without prejudice to Clause 15.03(a) and (f) with respect to calculation of the value of assets of the ICAV and each Fund, Shares:-
  - (a) for which applications have been made or which are issued pursuant to Clause 8.00 hereof shall be deemed to be in issue at the Valuation Point for the Dealing Day on or with respect to which such Shares are issued;
  - (b) redeemed in accordance with Clause 11.00 hereof shall be deemed to be redeemed at the Valuation Point for the Dealing Day on or with respect to which such Shares are redeemed.

9.03 The Directors may on any Dealing Day allot Shares in any Fund or Class on terms that settlement shall be made by the vesting in the ICAV of assets of the type in which the subscription monies for the relevant Shares may be invested in accordance with the investment objective policy and restrictions of the relevant Fund provided that:

- (i) no Shares shall be issued until the Investments have been vested or arrangements are made to vest the Investments with the Depositary or its sub-custodian to the Depositary's satisfaction;
- (ii) any such exchange shall be effected on terms that the number of Shares to be issued shall be the number (including, at the Director's discretion, fractions of Shares) which would have been issued at the Subscription Price for a cash amount equal to the value of the Investments as calculated in accordance with Clause 15.00 including such sum as the Directors may consider an appropriate provision for Duties and Charges arising in connection with the vesting of the Investments;
- (iii) the Investments to be transferred to the ICAV shall be valued on such basis as the Directors with the consent of the Depositary may decide so long as such value does not exceed the highest amount that would be obtained on the date of the exchange by applying the rules relating to valuation of Investments contained in Clause 15.00;

- (iv) there may be paid to the incoming Shareholder out of the Investments of the relevant Fund a sum in cash equal to the value at the current price of any fraction of a Share excluded from the calculation aforesaid; and
- (v) the Depositary shall be satisfied that the terms of such exchange shall not be such as are likely to result in any material prejudice to the existing Shareholders.

9.04 No Shares shall be allotted on a particular Dealing Day if on that Dealing Day the determination of the Net Asset Value of the relevant Fund or attributable to a Class is temporarily suspended pursuant to Clause 14.05 of this Instrument.

10.00 **QUALIFIED HOLDERS AND COMPULSORY REDEMPTION**

10.01 The Directors may impose such restrictions as they may think necessary for the purpose of ensuring that no Shares in the ICAV are acquired or held directly or beneficially by:

- (i) any person in breach of the law or requirements of any country or governmental authority by virtue of which such person is not qualified to hold Shares including without limitation any exchange control regulations;
- (ii) a US Person other than pursuant to an exemption available under the Securities Act;
- (iii) any person, whose holding would cause or be likely to cause the ICAV to be required to register as an “investment company” under the United States Investment Company Act of 1940 or to register any class of its securities under the Securities Act or similar statute;
- (iv) any person or persons in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Directors to be relevant) which in the opinion of the Directors might result in the ICAV or any Shareholder or any Fund incurring any liability to taxation or suffering legal, pecuniary, regulatory or material administrative disadvantages which the ICAV or the Shareholders as a whole or any Fund might not otherwise have incurred or suffered (including without limitation, where a Shareholder fails to provide the ICAV with information required to satisfy the obligations under FATCA, CRS or any other applicable law of the ICAV, a Fund, the Depositary, the Administrator, the Investment Manager or any delegate thereof);
- (v) any person who does not supply any information or declarations required under the Instrument, Prospectus or Supplement within seven days of a request to do so by the Directors;
- (vi) any person who does not supply satisfactory anti-money laundering or related documentation as requested by the ICAV or its delegate;

- (vii) 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
- (viii) any person who holds less than the Minimum Holding;

and the Directors may reject in their discretion any application for Shares by, or any transfer of Shares to, any persons who are so excluded from purchasing or holding Shares pursuant to Clauses 10.04 or 10.07 below and at any time repurchase those Shares, or pursuant to Clause 10.04, require the transfer of Shares held by Shareholders who are so excluded from purchasing or holding shares.

- 10.02 The Directors shall 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 Clauses 10.04 or 10.07 below provided that the Directors may 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 10.01 as they shall in their discretion deem sufficient.
- 10.03 If a person becomes aware that he is holding or owning Shares in contravention of Clause 10.01 (except for Clause 10.01(vi)) he shall forthwith in writing request the ICAV to redeem such Shares in accordance with Clause 11.00 of this Instrument or transfer such Shares to a person duly qualified to hold the same unless he has already received a notice under Clause 10.04.
- 10.04 If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Shares are owned directly or beneficially by any person or persons in breach of any restrictions imposed by the Directors pursuant to Clause 10.01 (except for Clause 10.01(vi)) the Directors shall be entitled to (i) give notice (in such form as the Directors deem appropriate) to such person requiring him to (a) transfer such Shares to a person who is qualified or entitled to own the same without contravening any restriction imposed by the Directors, or (b) request in writing the redemption of such Shares in accordance with Clause 11.00 and/or (ii) appropriate, compulsorily redeem and/or cancel such number of Shares held by such person as is required to discharge and may apply the proceeds of such compulsory redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Shares by such person including any interest or penalties payable thereon.
- 10.05 If any person upon whom such a notice is served as aforesaid does not within 30 days after such notice has been served transfer the Shares the subject matter of the notice or request in writing the ICAV to redeem the Shares he shall be deemed forthwith upon the expiration of the said 30 days to have requested the redemption of all his Shares the subject of such notice whereupon if he shall have been issued with a certificate for his Shares he shall be bound to deliver the certificate to the ICAV forthwith and the ICAV shall be deemed to be appointed his attorney with authority to appoint any person to sign on his behalf such documents as may be required for the purposes of the redemption. To any such redemption the provisions of Clause 11.00 shall apply subject to Clause 10.06 below save that the deemed request to redeem the Shares may not be withdrawn notwithstanding that the determination of the Net Asset Value of the relevant Fund or Class of Shares may have been suspended under Clause 14.04 of this Instrument.

- 10.06 Settlement of any redemption or transfer effected pursuant to Clauses 10.04 or 10.05 hereof, shall be effected by depositing the redemption monies or proceeds of sale in a bank for payment to the person entitled subject to such consents as may be necessary being obtained and, if relevant and at the discretion of the Directors, production of the certificate or certificates representing the Shares previously held by such person with the redemption request on the reverse of each duly signed. Upon deposit of the redemption monies as aforesaid such person shall have no further interest in such Shares or any of them or any claim in respect thereof except the right to claim without recourse to the ICAV the redemption monies so deposited without interest.
- 10.07 If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Shares are owned directly or beneficially by any person or persons in breach of any restrictions imposed by the Directors pursuant to Clause 10.01(vi), the Directors shall be entitled to appropriate, compulsorily redeem and/or cancel such number of Shares held by such person. Monies from such redemption may not be returned to such person until such time as satisfactory anti-money laundering verification documentation and information is received by the ICAV. Settlement of any redemption effected pursuant to this Clause shall be effected by depositing the redemption monies or proceeds of sale in a bank pending payment to the person entitled, subject to receipt of satisfactory anti-money laundering or related documentation as requested by the ICAV or its delegate and, if relevant and at the discretion of the Directors, production of the certificate or certificates representing the Shares previously held by such person with the redemption request on the reverse of each duly signed. The costs of any such redemption and maintenance of any such bank account shall be borne by the relevant person and may be deducted from the proceeds of the relevant redemption. Upon deposit of the redemption monies as aforesaid, such person shall have no further interest in such Shares or any of them or any claim in respect thereof except the right to claim (subject to the provision of satisfactory anti-money laundering verification documentation) without recourse to the ICAV the redemption monies so deposited without interest.
- 10.08 Any person or persons to whom Clauses 10.01, 10.02, 10.04, 10.05 or 10.07 shall apply shall indemnify the ICAV, the Directors, the Manager, the Investment Manager the Administrator, the Distributors, the Depositary and any Shareholder for any loss suffered by it or them as a result of such person or persons acquiring or holding Shares in the ICAV.
- 10.09 (a) The ICAV shall be entitled to redeem any Share of a Shareholder or any Share to which a person is entitled by transmission provided that:-
- (i) for a period of six years no cheque or confirmation of ownership of Shares sent by the ICAV through the post in a pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or the last known address given by the Shareholder or the person entitled by transmission to which cheques or confirmations of the ownership of shares are to be sent has been cashed or acknowledged and no communication has been received by the ICAV from the Shareholder or the persons entitled by transmission;
  - (ii) at the expiration of the said period of six years the ICAV has given notice of its intention to redeem such Share or Shares by notice

sent by pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or to the last known address given by the Shareholder or the person entitled by transmission or by advertisement in a national daily newspaper published in Ireland or in a newspaper circulating in the area in which the address of the Shareholder is located;

(iii) during the period of three months after the date of the giving of such notice and prior to the exercise of the power of redemption the ICAV has not received any communication from the Shareholder or person entitled by transmission; and

(iv) if the Shares are quoted on a stock exchange the ICAV has first given notice in writing to the appropriate section of such stock exchange of its intention to redeem such Shares, if it is required to do so under the rules of such stock exchange.

(b) The ICAV shall account to the Shareholder or to the person entitled to such Shares for the net proceeds of such redemption by carrying all moneys in respect thereof as a permanent debt of the ICAV and the ICAV shall be deemed to be a debtor and not a trustee in respect thereof for such Shareholder or other person.

## 11.00 **REDEMPTION OF SHARES**

11.01 As is more specifically described herein below, the ICAV has the power to redeem its own outstanding fully paid Shares on any Dealing Day. A Shareholder may at any time request the ICAV to redeem all or any of his Shares in the ICAV in such manner as the Directors may from time to time decide. Subject to Clause 11.15 any such request shall be irrevocable save with the consent in writing of the ICAV or its authorised agent. The Directors may at their discretion impose a minimum redemption amount in relation to any particular Fund or Class.

11.02 Subject to Clauses 10.04, 10.05 and 10.07 a redemption request shall not be processed until the ICAV has received a completed redemption request and, if applicable, evidence satisfactory to the ICAV of succession or assignment from the Shareholder and such other information as the ICAV or its delegate may reasonably require (including, for example, the original of the application form and the original redemption instruction and the original of any supporting anti-money laundering or related documentation) by such time as may from time to time be specified in the relevant Supplement.

11.03 In the event of receipt of a valid redemption request by such time as may from time to time be specified by the ICAV, the ICAV shall redeem the Shares the subject of the request subject to any suspension of this redemption obligation pursuant to Clause 14.05 hereof PROVIDED THAT the Directors may, in their discretion, accept a redemption request for processing on a Dealing Day notwithstanding that such request may have been received after the time specified from time to time by the Directors for the receipt of redemption requests for such Dealing Day so long as such redemption is received on a day prior to the Valuation Day for such Dealing Day. Shares in the capital of the ICAV which are redeemed by the ICAV shall be cancelled.

- 11.04 Following the processing of a redemption request the Shareholder will be paid a price per Share equal to the Redemption Price per Share ascertained by:-
- (a) determining the Net Asset Value per Share as at the Valuation Point for the relevant Dealing Day in accordance with the provisions of Clause 14.00 hereof;
  - (b) deducting therefrom a provision for Duties and Charges if the Directors so determine;
  - (c) in the event of requests for redemption exceeding subscription applications for the relevant Fund on any Dealing Day and if the Directors so determine, deducting therefrom such provision representing an anti-dilution levy to provide for dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors determine; and
  - (d) rounding the resulting total to such number of decimal places as the Directors may determine.
- 11.05 A redemption charge not exceeding 3% of the Net Asset Value per Share may be deducted from the Redemption Price for the absolute use and benefit of the ICAV and the Directors may at their discretion waive, either wholly or partially, such redemption charge or differentiate between Shareholders as to the amount of such redemption charge, if any, within the permitted limit. The ICAV shall not increase the maximum redemption charge without the prior approval of shareholders given on the basis of an Ordinary Resolution at a general meeting or with the prior written approval of all Shareholders in a particular Fund. The ICAV shall not increase the maximum redemption charge without prior approval of Shareholders given on the basis of a simple majority of votes cast in a general meeting or with the prior written approval of all Shareholders or such other majority as is specified this Instrument. In the event of an increase in the redemption charge a reasonable notification period must be provided by the ICAV to enable Shareholders to redeem Shares prior to the implementation of the increase.
- 11.06 Subject to Clause 30.08 any amount payable to a Shareholder under this Clause shall be paid in the Base Currency or such other currency or currencies as the Directors shall have determined as appropriate and shall be dispatched no later than ten (10) Business Days after the latest time for receipt of redemption requests for the relevant Dealing Day.
- 11.07 Any request for redemption of Shares shall not be valid and effective unless, in the case of Shares for which a certificate has been issued, the certificate or certificates for such Shares in proper form accompanies such request.
- 11.08 On redemption of part only of the Shares comprised in any certificate the Directors shall procure that a balance certificate be issued for the balance of such Shares free of charge.
- 11.09 If a redemption of part only of a Shareholder's holding of Shares would leave the Shareholder holding less than the Minimum Holding the ICAV may redeem the whole of that Shareholder's holding.

- 11.10 Where a certificate has been issued the Directors may at their option dispense with the production of any certificate which shall have become lost or destroyed upon compliance by the holder of Shares to be redeemed with the like requirements to those applying in the case of an application by him for replacement of a lost or destroyed certificate under Clause 6.00 hereof.
- 11.11 If the number of Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day is equal to one tenth or more of the total number of Shares in issue in that particular Fund or equal to one tenth or more of the Net Asset Value of the Fund, and if the Directors refuse to redeem Shares in excess of one tenth of the total number of Shares in issue, or such higher percentage that the Directors may determine, the Directors may in their discretion refuse to redeem any Shares in that Fund in excess of one tenth of the total number of Shares in issue or equal to one tenth or more of the Net Asset Value of the Fund (or such higher percentage that they may determine) in that Fund and, if they so refuse, the requests for redemption on such Dealing Day shall be reduced pro rata and the Shares to which each request relates which are not redeemed by reason of such reduction shall be treated as if a request for redemption had been made in respect of each subsequent Dealing Day until all the Shares to which the original request related have been redeemed.
- 11.12 The ICAV may, at the discretion of the Directors and with the consent of the Shareholder requesting the relevant redemption, satisfy any request for redemption of Shares by the transfer in specie to a Shareholder requesting redemption of assets of the relevant Fund having a value (calculated in accordance with Clause 15.00) equal to the Redemption Price for the Shares redeemed as if the redemption proceeds were paid in cash less any redemption charge and other expenses of the transfer as the Directors may determine PROVIDED THAT any such Shareholder requesting the relevant redemption shall be entitled to request the sale of any asset or assets proposed to be distributed in specie and the distribution to such Shareholder of the cash proceeds of such sale. The costs of any such sale shall be borne by the relevant Shareholder. The nature and type of any assets to be transferred in specie to each Shareholder shall be determined by the Directors on such basis as the Directors in their discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders in the relevant Fund or Class, provided that the asset allocation is subject to the approval of the Depositary.
- 11.13 In a situation where the redeeming Shareholder requests redemption of a number of Shares that represent 5% or more of the Net Asset Value of any Fund, the Directors have the sole discretion on behalf of the ICAV to determine to provide redemption in specie in this case. In this event, the ICAV shall sell, if requested, the assets on behalf of the Shareholders after the redemption has been effected, the costs of which shall be borne by the relevant Shareholder.
- 11.14 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon a disposal of Shares by a Shareholder (whether upon a redemption or transfer of Shares or otherwise) the Directors may arrange for the deduction from the proceeds due to be paid to a Shareholder of a cash amount equal to the liability or in their discretion in accordance with Clause 10.00 hereof the compulsory redemption and cancellation of such number of Shares of such Shareholder as is sufficient after the deduction of any redemption charges to discharge any such liability and the relevant Shareholder shall indemnify the ICAV against any loss suffered by it in connection with any obligation or liability to so



deduct, withhold or account. If the determination of the Net Asset Value of any Fund or Class has been suspended pursuant to Clause 14.05 hereof the right of a Shareholder to have his Shares redeemed pursuant to this Clause shall be similarly suspended and during the period of suspension he may withdraw any request for redemption of his Shares. Any withdrawal of a request for redemption under the provisions of this Clause shall be made in writing and shall only be effective if actually received by the ICAV or its duly authorised agent before termination of the suspension. If the request is not withdrawn during the period of suspension the redemption of Shares shall be effected on the Dealing Day next following the end of the suspension subject to Clause 11.11.

11.15 Where all the Shares in a Class or Fund have been redeemed, the Directors may subsequent to such redemption make a subsequent issue of Shares in that Class or Fund at a Subscription Price per Share determined by the Directors. Any such issue of Shares pursuant to this Clause shall be in accordance with the requirements of the Central Bank.

## 12.00 **TOTAL REDEMPTION**

12.01 The ICAV may by not less than four nor more than twelve weeks' notice to Members expiring on a Dealing Day, redeem at the Redemption Price on such Dealing Day, all of the Shares in any Fund or Class or all Funds or Classes not previously redeemed.

12.02 The ICAV shall redeem all of the Shares in any Fund or Class not previously redeemed if the holders of 75% in value of the relevant Fund or Class resolve at a meeting of the Shareholders of such Fund or Class duly convened and held that such Shares should be redeemed.

12.03 If all of the Shares in a particular Fund or Class are to be redeemed as aforesaid the Directors, with the sanction of an Ordinary Resolution of the relevant Fund or Class, may divide amongst the Shareholders in specie all or part of the assets of the relevant Fund or Class according to the Net Asset Value of the Shares then held by each Shareholder in the relevant Fund or Class in accordance with Clause 14.00 hereof provided that any Shareholder shall be entitled to request, at the expense of such Shareholder, the sale of any asset or assets proposed to be so distributed and the distribution to such Shareholder of the cash proceeds of such sale.

12.04 If all of the Shares of the ICAV are to be redeemed as aforesaid the ICAV, with the approval of the Shareholders by Ordinary Resolution, may divide amongst the Shareholders in specie all or part of the assets of the ICAV according to the Net Asset Value of the Shares then held by each Shareholder as determined in accordance with Clause 14.00 hereof.

12.05 If all the Shares in the ICAV or a Fund or Class are to be redeemed as aforesaid and the whole or any part of the business or property of the relevant Fund or any of the assets of the ICAV are proposed to be transferred or sold to another company (hereinafter called "the Transferee") the Directors may, with the sanction of a Special Resolution of the ICAV or the relevant Fund or Class conferring either a general authority on the Directors or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale shares, units, policies or other like interests or property in or of the Transferee

for distribution among the said Shareholders, or may enter into any other arrangement whereby the said Shareholders may in lieu of receiving cash or property or in addition thereto participate in the profits of or receive any other benefit from the Transferee.

12.06 The Non-Participating Shares (or any of them) may be redeemed by the ICAV at any time after the first issue of Shares is effected after the initial offer period. The redemption price for each Non-Participating Share shall be €1.

### 13.00 **CONVERSION OF SHARES**

13.01 Subject as hereinafter provided and to any restrictions imposed pursuant to this Instrument a Shareholder of any Fund or Class (the "Original Fund") shall have the right from time to time to convert all or any Shares held by him into Shares of another Fund or Class or another Class in the same Fund (the "New Fund") either existing or established as provided herein. The Directors may at their discretion impose a minimum conversion amount in relation to any particular Fund or Class.

13.02 The right of conversion is exercisable by the said Shareholder giving to the ICAV a notice (hereinafter called "Conversion Notice") in such form and by such time and means as the Directors may from time to time determine, or such other evidence of title as the Directors may require provided that the Shares proposed to be converted have a value at the time of conversion not less than the value of the Minimum Subscription for the New Fund or such other amount as may be determined by the Directors from time to time and the Shareholder otherwise satisfies the criteria determined by the Directors for investment in the New Fund.

13.03 Following receipt by the ICAV of a Conversion Notice the conversion of Shares specified in a Conversion Notice shall be effected on a day which is a Dealing Day for the Original Fund and the New Fund or on such other Dealing Days as the Directors may determine PROVIDED THAT the Directors may, in their discretion, accept a conversion request for processing on a Dealing Day notwithstanding that such request may have been received after the time specified from time to time by the Directors for the receipt of conversion requests for such Dealing Day so long as such conversion request is received on a day prior to the Valuation Day for the relevant Dealing Day.

13.04 A Shareholder requesting conversion shall not without the written consent of the ICAV or its authorised agent be entitled to withdraw a Conversion Notice duly made in accordance with this Clause except in circumstances in which he would be entitled to withdraw a request for redemption of Shares.

13.05 Conversion of Shares specified in a Conversion Notice may, subject to the Central Bank UCITS Regulations and this Instrument, be effected in such manner as may be determined by the Directors and without prejudice to the generality of the foregoing may be effected by the redemption of Shares of the Original Fund (save that the redemption monies shall not be released to the Shareholder requesting conversion) and the issue of Shares in the New Fund.

13.06 The number of Shares of the New Fund to be issued on conversion shall be determined by the Directors in accordance (or as nearly as may be in accordance) with the following formula:

$$S = \frac{(R \times NAV \times ER) - F}{SP}$$

where:-

S is the number of Shares of the New Fund to be allotted.

R is the number of Shares in the Original Fund to be redeemed.

NAV is the Net Asset Value per Share of the Original Fund at the Valuation Point on the relevant Dealing Day.

ER is the currency conversion factor (if any) as determined by the Administrator.

F is the conversion charge (if any) of up to 5% of the Net Asset Value of the Shares to be issued in the New Fund.

SP is the Net Asset Value per Share of the New Fund at the Valuation Point on the relevant Dealing Day.

- 13.07 Upon conversion of Shares as provided for herein the Directors shall cause assets or cash equal to the value of "S" as defined in Clause 13.06 to be transferred to the New Fund.
- 13.08 The Directors may charge a fee on the conversion of Shares in any Fund or Class into Shares in another Fund or Class or another Class in the same Fund up to a maximum of 5% of the Subscription Price of Shares to be issued in the New Fund or Class upon conversion of the Shares in the Original Sub-Fund.
- 13.09 Where a conversion request would result in a Shareholder holding a number of Shares in either the Original Fund or the New Fund which would be less than the Minimum Holding for the New Fund, the Directors may, if they think fit, convert the whole of such Shareholder's holding in the Original Fund to Shares in the new Fund or refuse to effect any conversion from the Original Fund.
- 13.10 On conversion of the whole or part only of the Shares comprised in a Certificate, the Directors shall procure the issue of a new Certificate, and, in the case of a conversion of part only of the Shares comprised in a certificate, a balance Certificate free of charge in respect of the Shares issued in the New Fund and the remaining Shares held in the Original Fund (if any) to be sent to the Shareholder or as he shall direct.
- 13.11 Fractions of Shares of the New Fund may be issued on conversion subject to Clause 8.08.

14.00 **DETERMINATION OF NET ASSET VALUE**

- 14.01 The ICAV or its duly appointed agent, shall on or with respect to each Dealing Day, determine the Net Asset Value of each Fund or, if there are different Classes within a Fund, attributable to each Class and the Net Asset Value per Share in accordance with the following provisions.

- 14.02 The Net Asset Value of each Fund shall be determined each Valuation Day as at the Valuation Point for the relevant Dealing Day by ascertaining the value of the assets of the Fund pursuant to Clause 15.01 hereof, having regard to the principles specified in, and making such additions, deductions and adjustments as are appropriate pursuant to Clause 15.03 hereof. The Net Asset Value attributable to a Class shall be determined as at the Valuation Point for the relevant Dealing Day by calculating that portion of the Net Asset Value of the relevant Fund attributable to the relevant Class as at the Valuation Point by reference to the number of Shares in issue or deemed to be in issue in each Class on the relevant Dealing Day subject to adjustment to take account of any increase or decrease, entitlements, costs or liabilities attributable to one Class only, which will only be allocated to that Class including the gains/losses on and costs of financial instruments employed in the currency hedging of a particular Hedged Currency Share Class.
- 14.03 In calculating the Net Asset Value per Share on any Dealing Day when there are net subscriptions/redemptions/positions, the Net Asset Value per Share may be adjusted by adding/deducting, as the case may be, an anti-dilution levy to cover dealing costs and to preserve the value of underlying assets of a Fund.
- 14.04 The Net Asset Value per Share shall be determined as at the Valuation Point on or with respect to each Dealing Day by dividing the Net Asset Value of the relevant Fund or attributable to a Class by the number of Shares in issue or deemed to be in issue in such Fund or Class at the Valuation Point.
- 14.05 The Directors may at any time and from time to time temporarily suspend the determination of the Net Asset Value of a Fund or attributable to a Class and the issue, redemption and conversion of Shares in any Fund or Class, in the following instances:
- (a) during the whole or part of any period (other than ordinary holidays or customary weekends) when any of the Recognised Markets on which Investments of the relevant Fund are quoted, listed, traded or dealt are closed or during which dealings therein are restricted or suspended or trading is suspended or restricted;
  - (b) during the whole or part of any period when circumstances outside the control of the Directors exist as a result of which any disposal or valuation by the ICAV of Investments of the relevant Fund is not reasonably practicable or would be detrimental to the interests of Shareholders or it is not possible to transfer monies involved in the acquisition or disposition of Investments to or from the relevant account of the ICAV;
  - (c) during the whole or part of any period when any breakdown occurs in the means of communication normally employed in determining the value of any of the Investments of the relevant Fund;
  - (d) during the whole or part of any period when for any reason the value of any Investments of the relevant Fund cannot be reasonably, promptly or accurately ascertained;
  - (e) during the whole or part of any period when subscription proceeds cannot be transmitted to or from the account of any Fund or the ICAV is

unable to repatriate funds required for making redemption payments or when such payments cannot, in the opinion of the Directors, be carried out at normal rates of exchange;

- (f) upon mutual agreement between the ICAV and the Depositary for the purpose of winding up the ICAV or terminating any Fund; or
- (g) any other reason makes it impossible or impracticable to determine the value of a substantial portion of the Investments of the ICAV or any Fund;

and shall temporarily suspend the determination of the Net Asset Value of a Fund or attributable to a Class and the issue, redemption and conversion of Shares in any Fund or Class if directed to do so by the Central Bank.

14.06 Notice of any such suspension and notice of the termination of any such suspension shall be published by the ICAV in such manner as the Directors may deem appropriate to notify the persons likely to be affected thereby and given immediately to the Central Bank and in any event within the Business Day on which such suspension took effect.

14.07 The Directors shall ensure that the Net Asset Value per Share is made readily available for the relevant Shareholders.

#### 15.00 **VALUATION OF ASSETS**

15.01 The value of the Investments of each Fund shall be determined as at the Valuation Point as follows:-

- (a) Investments which are quoted, listed or traded on a Recognised Market will save as hereinafter provided at Clauses 15.01(d), 15.01(e), 15.01(f), 15.01(g) and 15.01(h) hereof, be valued at last traded price. Where a security is listed or dealt in on more than one Recognised Market the relevant exchange or market shall be the principal stock exchange or market on which the security is listed or dealt. Investments listed or traded on a Recognised Market, 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 security which is not quoted, listed or dealt in on a Recognised Market 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 Directors or the Manager or (ii) a competent person, firm or corporation (including the Investment Manager) appointed by the Directors 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 Directors 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 nominal value plus accrued interest, where applicable, to the end of the relevant day on which the Valuation Point occurs.
- (d) exchange derivatives shall be valued at the relevant settlement price as determined by the market where the instrument is traded, and if such settlement price is not available, such value shall be calculated in accordance with (b) above;
- (e) Forward foreign exchange contracts and interest rate swap contracts shall be valued in the same manner as derivatives contracts which are not traded in a regulated market or by reference to freely available market quotations..
- (f) Notwithstanding Clause 15.01 (a) above, units in collective investment schemes shall be valued at the latest available net asset value per unit or bid price as published by the relevant collective investment scheme.
- (g) In the case of a Fund which is a money market fund, the Directors may value any security using the amortised cost method of valuation in accordance with requirements of the Central Bank (as amended from time to time). The Directors or their delegates shall review or cause a review to take place of deviations between the amortised method of valuation and the market value of securities, in accordance with the Central Bank's guidelines.
- (h) The Directors may value money market instruments having a residual maturity not exceeding three months using the amortised cost method of valuation provided that the instruments have no specific sensitivity to market parameters, including credit risk.
- (i) The Directors or a competent person appointed by the Directors and approved by the Depositary (which may be the Manager) may adjust the value of any Investment if, having regard to its currency, marketability, applicable interest rates, dealing costs, anticipated rates of dividend, maturity, liquidity or any other relevant considerations, they consider that such adjustment is required to reflect the fair value thereof.
- (j) 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 exchange rate (whether official or otherwise) which the Directors shall determine to be appropriate.

15.02 If the Directors deem it necessary a specific Investment may be valued using an alternative method of valuation approved by the Depositary and the rationale/methodologies shall be clearly documented.

15.03 In calculating the value of assets of the ICAV and each Fund the following principles

will apply:

- (a) the Directors may value the Investments of a Fund (i) at bid prices where on any Dealing Day the value of all redemption requests received exceeds the value of all applications for Shares received for that Dealing Day or at offer prices where on any Dealing Day the value of all applications for Shares received for that Dealing Day exceeds the value of all redemption requests received for that Dealing Day, in each case in order to preserve the value of the Shares held by existing Shareholders; (ii) at bid and offer prices where a bid and offer value is used to determine the price at which shares are issued and redeemed; or (iii) at mid prices; provided in each case that the valuation policy selected by the Directors shall be applied consistently with respect to the ICAV and, as appropriate, individual Funds for so long as the ICAV or Funds as the case may be are operated on a going concern basis;
- (b) every Share agreed to be issued by the Directors with respect to each Dealing Day shall be deemed to be in issue at the Valuation Point for the relevant Dealing Day and the assets of the relevant Fund shall be deemed to include not only cash and property in the hands of the Depositary but also the amount of any cash or other property to be received in respect of Shares agreed to be issued after deducting therefrom (in the case of Shares agreed to be issued for cash) or providing for preliminary charges;
- (c) where Investments have been agreed to be purchased or sold but such purchase or sale has not been completed, such Investments shall be included or excluded and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase or sale had been duly completed unless the Directors have reason to believe such purchase or sale will not be completed;
- (d) there shall be added to the assets of the relevant Fund any actual or estimated amount of any taxation of a capital nature which may be recoverable by the ICAV which is attributable to that Fund;
- (e) there shall be added to the assets of each relevant Fund a sum representing unamortised expenses and a sum representing any interest, dividends or other income accrued but not received unless the Directors are of the opinion that such interest, dividends or other income are unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Directors or their delegate (with the approval of the Depositary) may consider appropriate in such case to reflect the true value thereof;
- (f) there shall be added to the assets of each relevant Fund the total amount (whether actual or estimated by the Directors or their delegate) of any claims for repayment of any taxation levied on income or capital gains including claims in respect of double taxation relief; and
- (g) where notice of the redemption of Shares has been received by the ICAV with respect to a Dealing Day and the cancellation of such Shares has not been completed, the Shares to be redeemed shall be deemed

not to be in issue at the Valuation Point and the value of the assets of the relevant Fund shall be deemed to be reduced by the amount payable upon such redemption;

- (h) there shall be deducted from the assets of the relevant Fund:
- (i) the total amount of any actual or estimated liabilities properly payable out of the assets of the relevant Fund including any and all outstanding borrowings of the ICAV in respect of the relevant Fund, interest, fees and expenses payable on such borrowings and any estimated liability for tax and such amount in respect of contingent or projected expenses as the Directors consider fair and reasonable as of the relevant Valuation Point;
  - (ii) such sum in respect of tax (if any) on income or capital gains realised on the Investments of the relevant Fund as in the estimate of the Directors will become payable;
  - (iii) the amount (if any) of any distribution declared by the Shareholders of the relevant Fund or the Directors pursuant to Clause 30.00 hereof but not distributed in respect thereof;
  - (iv) the remuneration of the Manager, the Administrator, the Depositary, the Investment Manager, any Distributor and any other providers of services to the ICAV accrued but remaining unpaid together with a sum equal to the value added tax chargeable thereon (if any);
  - (v) the total amount (whether actual or estimated by the Directors) of any other liabilities properly payable out of the assets of the relevant Fund (including all establishment, operational and ongoing administrative fees, costs and expenses) as of the relevant Valuation Point;
  - (vi) an amount as of the relevant Valuation Point representing the projected liability of the relevant Fund in respect of costs and expenses to be incurred by the relevant Fund in the event of a subsequent liquidation;
  - (vii) an amount as of the relevant Valuation Point representing the projected liability of the relevant calls on Shares in respect of any warrants issued and/or options written by the relevant Fund or Class of Shares; and
  - (viii) any other liability of the type referred to in Clause 2.04 hereof.

15.04 Without prejudice to Clause 24.01 hereof the Directors or Manager may delegate any of their powers, authorities and discretions in relation to the determination of the value of any Investment to a committee of the Directors or to any other duly authorised person and may delegate the calculation of Net Asset Value in



accordance with the requirements of the Central Bank UCITS Regulations. In the absence of negligence, fraud or wilful default every decision taken by the Directors or the Manager or any committee of the Directors or any duly authorised person on behalf of the ICAV in determining the value of any Investment or calculating the Net Asset Value shall be final and binding on the ICAV and on present, past or future Shareholders.

16.00 **TRANSFER AND TRANSMISSION OF SHARES**

16.01 The transfer of Shares shall be effected in such denomination as the Directors may from time to time decide in accordance with the following provisions.

16.02 (a) The transfer of Shares may be effected in writing in any usual or common form, signed by or on behalf of the transferor and every transfer shall state the full name and address of the transferor and transferee.

(b) The Directors may from time to time specify a fee for the registration of instruments of transfer provided that the maximum fee may not exceed 5% of the Net Asset Value of the Shares the subject matter of the transfer on the Dealing Day immediately preceding the date of the transfer and which may be retained for the sole use and benefit of the ICAV or the Manager or the Distributor as the Directors in their absolute discretion may determine.

16.03 The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect thereof.

16.04 (a) The Directors may decline to register any transfer of a Share if:

(i) in consequence of such transfer the transferor or the transferee would hold a number of Shares less than the Minimum Holding;

(ii) all applicable taxes and/or stamp duties have not been paid in respect of the instrument of transfer;

(iii) the instrument of transfer is not deposited at the Office or such other place as the Directors may reasonably require, accompanied by the Certificate for the Shares to which it relates, such evidence as the Directors may reasonably require to show the right of the transferor to make the transfer, such relevant information and declarations as the Directors may reasonably require from the transferee including, without limitation, information and declarations of the type which may be requested from an applicant for Shares in the ICAV and such fee as may from time to time be specified by the Directors for the registration of any instrument of transfer; or

(iv) they are aware or reasonably believe the transfer would result in the beneficial ownership of such Shares by a person in contravention of any restrictions on ownership imposed by the Directors or might result in legal, regulatory, pecuniary, taxation or material administrative disadvantage to the relevant Fund or Class or the Shareholders as a whole generally, including (by way of example) and not limitation) any proposed transfers to a US Person that might

result in the ICAV or a Fund violating any provisions of the United States federal securities laws.

- (b) The Directors shall decline to register a transfer of Shares by a Shareholder who is the bearer of a share warrant unless the transferee is a Recognised Depositary.

- 16.05 The registration of transfers may be suspended for such periods as the Directors may determine provided always that each registration may not be suspended for more than 30 days.
- 16.06 If the Directors decline to register a transfer of any Share they shall, within two months after the date on which the transfer was lodged with the ICAV, send to the transferee notice of the refusal.
- 16.07 All instruments of transfer which shall be registered shall be retained by the ICAV, but any instrument of transfer which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.
- 16.08 In the case of the death of a Member, the survivors or survivor where the deceased was a joint holder and the executors or administrators of the deceased where he was a sole or surviving holder, shall be the only person(s) recognised by the ICAV as having title to his interest in the Shares, but nothing in this Clause shall release the estate of the deceased Member whether sole or joint from any liability in respect of any Share solely or jointly held by him.
- 16.09 Any guardian of an infant Shareholder and any guardian or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the Share or to make such transfer thereof as the Shareholder could have made, but the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a transfer of the Share by the Shareholder.
- 16.10 A person so becoming entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall have the right to receive and may give a discharge for all moneys payable or other advantages due on or in respect of the Share, but shall not be entitled to vote at meetings of the ICAV, nor, save as aforesaid, to any of the rights or privileges of a Shareholder unless and until he shall be registered as a Shareholder in respect of the Share PROVIDED ALWAYS that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within ninety days the Directors may thereafter withhold all moneys payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.
- 16.11 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the transfer of Shares by a Shareholder the Directors may arrange for the deduction from the proceeds due to be paid to a Shareholder of a cash amount equal to the liability or in their discretion in accordance with Clause 10.00 hereof the compulsory redemption and cancellation of such number of Shares of such Shareholder as is sufficient after the deduction of any redemption

charges to discharge any such liability and the relevant Shareholder shall indemnify the ICAV against any loss suffered by it in connection with any obligation or liability to so deduct, withhold or account.

17.00 **INVESTMENT OBJECTIVES**

17.01 (a) The ICAV and each Fund may invest only in those Investments permitted by the Regulations and the Central Bank UCITS Regulations subject to the limitations and restrictions set out in the Regulations and the Central Bank UCITS Regulations and any derogations therefrom permitted by the Central Bank.

(b) With the exception of permitted investment in unlisted securities, the ICAV and each Fund will only invest in those securities and derivative instruments listed or traded on a stock exchange or market (including derivative markets) which meets with the regulatory criteria (regulated, operate regularly, be recognised and open to the public) and which is listed in the Prospectus.

(c) The specific investment objectives and policies of each Fund will be set out in the relevant Supplement to the Prospectus and will be formulated by the Directors at the time of the creation of the relevant Funds.

(d) Subject to authorisation by the Central Bank each Fund may invest up to 100% of its assets in transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member State or public international bodies of which one or more Member States are members, drawn from the following list,

OECD Governments (provided the relevant issues are of investment grade)

Government of Singapore

Government of the People's Republic of China

Government of Brazil (provided the issues are of investment grade)

Government of India (provided the issues are of investment grade)

European Investment Bank

European Bank for Reconstruction & Development

International Finance Corporation

International Monetary Fund

Euratom

The Asian Development Bank

Council of Europe

Eurofima

African Development Bank

The World Bank

The International Bank for Reconstruction & Development

The Inter American Development Bank

European Union

European Central Bank

Federal National Mortgage Association (Fannie Mae)

Federal Home Loan Mortgage Corporation (Freddie Mae)

Government National Mortgage Association (Ginnie Mae)

Student Loan Marketing Association (Sallie Mae)

Federal Home Loan Bank  
Federal Farm Credit Bank  
Tennessee Valley Authority  
Straight-A Funding LLC

provided that if more than 35% of the assets of a Fund is invested in such securities, the Fund must hold securities from at least six different issues with securities from any one issue not exceeding 30% of the total assets of the relevant Fund.

- (e) The ICAV or a Fund may for the purposes and under the conditions specified in the Regulations own all the issued share capital of any private company, which in the interests of Shareholders the Directors consider it necessary or desirable for the ICAV to incorporate or acquire or utilise in connection with the ICAV or a Fund. All assets and shares of such a company will be held by the Depositary or its sub-custodian.

17.02 The ICAV and each Fund may employ financial derivative instruments and techniques and instruments for the purposes of investment and efficient portfolio management and the ICAV and each Fund and each Class may employ financial derivative instruments and techniques and instruments intended to provide protection against exchange risks in each case under the conditions and within the limits laid down from time to time by the Central Bank.

17.03 For the purpose of providing margin or collateral in respect of transactions in and the use of financial derivative instruments and techniques and instruments, the ICAV shall be entitled:-

- (a) to transfer, mortgage, charge or encumber any Investments or cash forming part of the ICAV or the relevant Fund;
- (b) to vest any such Investments or cash in the relevant Recognised Market or market or any company controlled by such Recognised Market or market and used for the purpose of receive margin and/or cover or in a nominee of the Depositary; and/or
- (c) to give or obtain the guarantee of a bank (and to provide any necessary counter-security therefor) and deposit such guarantee or cash, with a Recognised Market or counterparty or any company controlled by such Recognised Market or counterparty and used for the purpose of receiving margin and/or cover.

17.04 A Fund may in accordance with the requirements of the Central Bank replicate the composition of a stock or debt securities index which is recognised by the Central Bank.

17.05 A Fund may hold ancillary liquid assets.

## 18.00 **GENERAL MEETINGS**

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

18.02 The ICAV shall in each year hold a general meeting as its annual general meeting

in addition to any other meeting in that year. Not more than fifteen months shall elapse between the date of one annual general meeting of the ICAV and that of the next PROVIDED THAT so long as the ICAV holds its first annual general meeting within eighteen months of its incorporation it need not hold it in the year of its incorporation or in the following year.

18.03 The Directors may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to all of the Shareholders, which notice has effect for the year in which it is made and subsequent years. Where an election to dispense with the holding of an annual general meeting has effect for a year, one or more Shareholder(s) holding not less than 10% of the voting rights in the ICAV may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.

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

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

#### 19.00 **NOTICE OF GENERAL MEETINGS**

19.01 Subject to the provisions of the Act permitting a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting called for the passing of a Special Resolution shall be called by not less than twenty-one Clear Days' notice and all other extraordinary general meetings shall be called by at least seven Clear Days' notice which, in each case, shall specify the place, the day and the hour of the meeting, the general nature of the business to be transacted and in the case of a proposed Special Resolution, the text or substance of that Special Resolution, and, in reasonable prominence, that a Shareholder entitled to attend and vote is entitled to appoint one or more proxies to attend, speak and vote in his place, that a proxy need not be a Shareholder of the ICAV and the time by which the form of proxy must be received at the Office or some other place within the state of Ireland as is specified in the statement for that purpose.

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

19.03 In every notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend, speak and vote instead of him and that a proxy need not also be a Member.

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

19.05 Where, by any provision contained in the Acts, extended notice is required of a resolution, the resolution shall not be effective (except where the Directors of the

ICAV have resolved to submit it) unless notice of the intention to move it has been given to the ICAV not less than twenty-eight days (or such shorter period as the Acts permit) before the meeting at which it is moved, and the ICAV shall give to the Members notice of any such resolution as required by and in accordance with the provisions of the Acts.

20.00 **PROCEEDINGS AT GENERAL MEETINGS**

20.01 All business shall be deemed special that is transacted at an extraordinary general meeting, and also all business that is transacted at an annual general meeting with the exception of the consideration of the accounts and balance sheet and the reports of the Directors and Auditors, the review by the Members of the ICAV's affairs and the appointment and the fixing of the remuneration of the Auditors.

20.02 No business shall be transacted at any general meeting unless a quorum is present. If at any time, there are not, within the state of Ireland, sufficient Directors capable of forming a quorum, any Director or Members of the ICAV 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. Subject to Clause 5.03, two Members present either in person or by proxy shall be capable of forming a quorum for a general meeting. A representative of a corporation authorised pursuant to Clause 21.13 of this Instrument and present at any meeting of the ICAV or at any meeting of a Fund or Class of Shareholders shall be deemed to be a Member for the purpose of constituting a quorum.

20.03 If within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Shareholders, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall be a quorum.

20.04 The chairman, if one has been appointed or, if he is absent, the deputy chairman of the Directors, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the ICAV, but if at any meeting neither the chairman nor the deputy chairman nor such other Director is present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors are present, or if all the Directors present decline to take the chair, the Members present shall choose some Member present to be chairman.

20.05 The chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more ten Clear Days' notice at least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an

adjourned meeting.

- 20.06 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by the chairman or by at least three Members present in person or by proxy or any Shareholder or Shareholders present in person or by proxy representing at least one tenth of the Shares in issue having the right to vote at the meeting and any Member or Members holding Shares conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the Shares conferring that right. Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 20.07 If a poll is duly demanded, it shall be taken in such manner and at such place as the chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 20.08 The chairman may, in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 20.09 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 20.10 A poll demanded on the election of a chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairman directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 20.11 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 20.12 A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- 20.13 A resolution in writing signed by all the Members for the time being entitled to attend and vote on such resolution at a general meeting of the ICAV (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the ICAV duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members and if described as a Special Resolution shall be deemed to be a Special Resolution within the meaning of this Instrument. 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.

21.00 **VOTES OF SHAREHOLDERS**

- 21.01 On a show of hands every Member present in person or by proxy shall be entitled to one vote.
- 21.02 On a poll every Shareholder present in person or by proxy shall be entitled to one vote in respect of each Share held by him and every holder of Non-Participating Shares shall be entitled to one vote in respect of all Non-Participating Shares held by him. A Shareholder entitled to more than one vote need not cast all his votes, or cast all the votes he uses in the same way.
- 21.03 In the case of joint holders of a Share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the Shares.
- 21.04 A Member of unsound mind in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote whether on a show of hands or on a poll, by his committee, receiver, guardian or other person in the nature of a committee, receiver, guardian appointed by such court and such committee, receiver, guardian or other person may on a poll vote by proxy, provided that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Office not less than forty eight hours before the time for holding the meeting or adjourned meeting at which such person claims to vote.
- 21.05 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 21.06 On a poll votes may be given either personally or by proxy.
- 21.07 The instrument appointing a proxy shall be in writing (in electronic form or otherwise) under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. An instrument of proxy shall be in any usual form or in such form as the Directors may approve PROVIDED ALWAYS that such form shall give the Shareholder the choice of authorising his/her proxy to vote for or against each resolution.
- 21.08 Every Member entitled to attend and vote at a general meeting may appoint any person (whether a Member or not) to act as a proxy to attend, speak and vote on his behalf. A Shareholder may appoint more than one proxy to attend on the same occasion.
- 21.09 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be communicated by electronic means or deposited at the Office or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person



named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. Where the appointment of a proxy and any authority under which it is signed is to be received by the ICAV in electronic form, it may be so received where an address has been specified by the ICAV for the purpose of receiving Electronic Communications:

- (a) in the notice convening the meeting;
- (b) in any appointment of proxy sent out by the ICAV in relation to the meeting; or
- (c) in any invitation contained in an Electronic Communication to appoint a proxy issued by the ICAV in relation to the meeting.

21.10 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.

21.11 The Directors may at the expense of the ICAV send, by post or otherwise, to the Members instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any class of Members, either in blank or nominating in the alternative any one or more of the Directors or any other persons. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the ICAV, such invitations shall be issued to all (and not to some only) of the Shareholders entitled to be sent a notice of the meeting and to vote thereafter by proxy.

21.12 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer or redemption of the Shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation, transfer or redemption shall have been received by the ICAV at the Office, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.

21.13 Any body corporate which is a Member or creditor, may authorise by resolution of its directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member and such body corporate shall for the purposes of this Instrument be deemed to be present in person at any such meeting if a person so authorised is present in person or by proxy thereat.

21.14 The provisions of this Clause and of Clauses 18.00, 19.00 and 20.00 save to the extent expressly provided herein or therein with respect to meetings of Funds or Classes shall apply mutatis mutandis to separate meetings of each Fund or Class of Shareholders at which a resolution varying the rights of Shareholders in such Fund or Class is tabled.

22.00 **DIRECTORS**

- 22.01 Unless otherwise determined by an Ordinary Resolution of the ICAV, the number of Directors shall not be less than two or more than nine.
- 22.02 A Director need not be a Member but may be appointed only in accordance with the Central Bank UCITS Regulations.
- 22.03 There are no requirements for Directors to retire on attaining a particular age.
- 22.04 A Director may vote and be counted in the quorum at a meeting to consider the appointment or the fixing or variation of the terms of appointment of any Director to any office or employment with the ICAV or any company in which the ICAV is interested, but a Director may not vote or be counted in the quorum on a resolution concerning his own appointment.
- 22.05 The Directors of the ICAV for the time being are entitled to such remuneration as may be determined by the Directors and disclosed in the Prospectus issued by the ICAV from time to time and may be reimbursed all reasonable travel, hotel and other expenses properly incurred in connection with the business of the ICAV or the discharge of their duties.
- 22.06 The Directors may in addition to such remuneration as is referred to in Clause 22.05 of this Instrument grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.
- 22.07 A Director is expressly permitted (pursuant to the Act) to use the ICAV's property subject to such conditions as may be approved pursuant to such authority as may be delegated by the Directors in accordance with this Instrument.
- 22.08 Any Director may at any time by instrument in writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any Director or other person to be his alternate Director and may in like manner at any time terminate such appointment. Save as otherwise provided in this Instrument, 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.
- 22.09 The appointment of an alternate Director shall terminate if his appointor dies or ceases to be a Director or on the happening of any event with respect to the alternate Director which if he were a Director would cause him to vacate such office provided that if a Director retires by rotation or otherwise but is re-appointed 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 and re-appointment shall continue after his re-appointment.
- 22.10 An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointor) were a Director. If he himself shall be a Director or attends a meeting as an alternate for more than one Director, his voting rights shall be cumulative,

provided however, that he shall count as one for the purposes of determining a quorum. If his appointor is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors and for the purposes of affixing the Seal shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which his appointor is a member. An alternate Director shall not save as aforesaid or as otherwise herein provided have power to act as a Director nor shall he be deemed to be a Director.

22.11 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the ICAV from time to time direct.

22.12 The office of a Director shall be vacated in any of the following events namely:-

- (a) if he resigns his office by notice in writing signed by him and left at the Office;
- (b) if he is adjudicated bankrupt or being bankrupt has not obtained a certificate of discharge in the relevant jurisdiction;
- (c) if the health of the Director is such that he can no longer be reasonably regarded as possessing an adequate decision making capacity;
- (d) if a declaration of restriction is made in relation to the Director and the ICAV does not satisfy the capital requirements prescribed in section 819 of the Act;
- (e) if a declaration of restriction is made in relation to the Director and, notwithstanding that the ICAV satisfied the capital requirements prescribed in section 819 of the Act, his co-directors resolve at any time during the currency of the declaration that his or her office be vacated;
- (f) if he is sentenced to a term of imprisonment following conviction of an indictable offence;
- (g) if he ceases to be a Director by virtue of, or becomes prohibited or restricted from being a Director by reason of, an order made under the provisions of any law or enactment;
- (h) if he is absent from meetings of the Directors for six successive months without leave expressed by a resolution of the Directors and the Directors resolve that his office be vacated;
- (i) if he becomes or is deemed to be subject to a disqualification order within the meaning of the Act;
- (j) if he is requested by a majority of the other Directors (not being less

than two in number) to vacate office; or

(k) if he is removed from office by Ordinary Resolution.

22.13 The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors. Directors are not required to retire by rotation.

## 23.00 **TRANSACTIONS WITH DIRECTORS**

23.01 A Director may hold any other office or place of profit under the ICAV (other than the office of Auditor) in conjunction with his office of Director on such terms as to tenure of office and otherwise as the Directors may determine.

23.02 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 contract or arrangement entered into by or on behalf of the ICAV in which any Director is in any way interested be liable to 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, but the nature of his interest must be declared by him at the meeting of the Directors at which the proposal to enter 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 becomes 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. A general notice in writing given to the Directors by any Director to the effect that he is a shareholder of any specified company or firm, and is to be regarded as interested in any contract which may thereafter be made with that company or firm, shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any such contract.

23.03 Save as provided by Clause 23.04 hereof, a Director shall not vote on any resolution or contract or arrangement or any proposal whatsoever in which he has any material interest or a duty which conflicts with the interests of the ICAV and unless otherwise resolved by the Directors a Director shall not be counted in the quorum at a meeting in relation to any resolution on which he is not entitled to vote.

23.04 A Director shall, in the absence of some material interest other than that indicated below, be entitled to vote and be counted in the quorum in respect of any resolution concerning any of the following matters, namely:-

(a) the giving of any security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the ICAV or any of its subsidiaries 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 subsidiaries or associated companies for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of

security;

- (c) any proposal concerning an offer of Shares or debentures or other securities of or by the ICAV or any of its subsidiaries or associated companies for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof;
- (d) any proposal concerning any other company or firm in which he is interested, directly or indirectly and whether as an officer, shareholder, partner, employee, agent or otherwise howsoever; or,
- (e) any proposal concerning the purchase of any policy of insurance against directors' and officers' liability.

23.05 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment 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 otherwise debarred from voting) shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

23.06 Nothing in section 228(1)(e) of the Act shall restrict a Director from entering into any commitment which has been approved by the Directors or has been approved pursuant to such authority as may be delegated to the board of Directors in accordance with this Instrument. It shall be the duty of each Director to obtain the prior approval of the board of Directors, before entering into a commitment permitted by the Act.

23.07 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his ruling in relation to any Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned has not been fairly disclosed.

23.08 For the purpose of this Clause, an interest of a person who is the spouse or a minor child of a Director shall be treated as an interest of the Director and, in the case of an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.

23.09 Any Director may act by himself or through his firm in a professional capacity for the ICAV, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditor.

23.10 The Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke any such appointment.

23.11 The Directors may entrust to and confer upon any Director holding any executive

office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

23.12 Any Director may continue to be or become a director, managing director, manager or other officer or shareholder of any company promoted by the ICAV or in which the ICAV may be interested or associated in business, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or shareholder of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to the directors, managing directors, managers or other officers of such company).

23.13 The ICAV may by Ordinary Resolution suspend or relax the provisions of this Clause to any extent or ratify any transaction not duly authorised by reason of a contravention hereof.

#### 24.00 **POWERS OF DIRECTORS**

24.01 The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not by the Act or by this Instrument required to be exercised by the ICAV in general meeting, subject, nevertheless, to this Instrument, the provisions of the Act and such directions, being not inconsistent with this Instrument or the Act, as may be prescribed by the ICAV by Ordinary Resolution provided that no such direction shall invalidate any prior act of the Directors which would have been valid if such direction had not been made. The general powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by this or any other Clause.

24.02 The Directors may, whether by standing resolution, power of attorney or otherwise, delegate all or any of their powers, authorities or discretions for such period and subject to such conditions as they may think fit including without limitation but subject to the Regulations and the Central Bank UCITS Regulations relating to the issue and repurchase of Shares, the calculation of the Net Asset Value per Share, the declaration and payment of dividends and the management, investment management and administration of the ICAV, to the Manager or to any duly authorised company, firm or other person subject to such terms and conditions as the Directors in their absolute discretion may resolve and, subject to the Regulations and the Central Bank UCITS Regulations, may also authorise the Manager or any such company, firm or person to delegate all or any of the powers, authorities and discretions so delegated.

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

24.04 Subject as provided in this Clause, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV or the subscription proceeds of any Shares in any securities and other assets authorised by Clause 19.00 hereof.

25.00 **BORROWING POWERS**

25.01 The ICAV may borrow not more than 10% of its assets, provided that such borrowing is on a temporary basis.

26.00 **PROCEEDINGS OF DIRECTORS**

26.01 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.

26.02 The quorum necessary for the transaction of business of the Directors may be fixed by the Directors, and unless so fixed at any other number shall be two.

26.03 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with this Instrument, the continuing Directors or Director may act for the purpose of filling vacancies in their number or of summoning general meetings of the ICAV, but not for any other purpose. If there be no Directors or Director able or willing to act, then any two Members may summon a general meeting for the purpose of appointing Directors.

26.04 The Directors may from time to time elect and remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.

26.05 The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there is no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman is not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.

26.06 Any Director or alternate Director may participate in a meeting of the Directors or any committee of the Directors by means of conference telephone or video link or other telecommunications equipment by means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting.

26.07 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors and to vote thereat shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors, and for the purposes of the foregoing signature by any alternate Director shall be as effective as the signature of the Director by whom he is appointed.

- 26.08 A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers, authorities and discretions for the time being exercisable by the Directors.
- 26.09 The Directors may delegate any of their powers or authorities or the exercise of discretion to committees consisting of such members of their body as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Clause 26.02 and shall be governed by the provisions of this Instrument regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- 26.10 Pursuant to the provisions of Clause 26.09, the Directors may delegate their powers relating to the declaration of interim dividends to a committee consisting of two or more Directors.
- 26.11 All acts done by any meeting of Directors, or of a committee of Directors or by any person acting as a Director shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- 26.12 The Directors shall cause minutes to be made of:-
- (a) all appointments of officers made by the Directors;
  - (b) the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
  - (c) all resolutions and proceedings of all meetings of the ICAV and of the Directors and of committees of Directors.
- 26.13 Any such minutes as are referred to in Clause 26.12 of this Instrument, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of their proceedings.
- 26.14 The Directors, from time to time and at any time by power of attorney under the Seal or otherwise, may appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys 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) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Notwithstanding the generality of the foregoing, the Directors may appoint an attorney for the purpose of exercising their power to allot relevant securities pursuant to this Instrument.



27.00 **MANAGING DIRECTORS**

27.01 The Directors may from time to time appoint one or more of their body to be a Managing Director or Managing Directors of the ICAV and may fix his or their remuneration.

27.02 Every Managing Director shall be liable to be dismissed or removed from his position as Managing Director by the Directors and another person appointed in his place. The Directors may, however, enter into an agreement with any person who is or is about to become a Managing Director with regard to the length and terms of his employment, but so that the remedy of any such person for any breach of such agreement shall be in damages only and he shall have no right or claim to continue in such office contrary to the will of the Directors or of the ICAV in general meeting.

27.03 The Directors may from time to time entrust to and confer upon the Managing Director or Managing Directors all or any of the powers of the Directors (not including the power to borrow money or issue debentures) that they may think fit. But the exercise of all powers by the Managing Director or Managing Directors shall be subject to all such regulations and restrictions as the Directors may from time to time make and impose and the said powers may at any time be withdrawn, revoked or varied.

28.00 **SECRETARY**

28.01 The Secretary shall be appointed by the Directors. Anything required or authorised to be done by or to the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by or to any assistant or deputy Secretary or if there is no assistant or deputy Secretary capable of acting, by or to any officer of the ICAV authorised generally or specially in that behalf by the Directors PROVIDED THAT any provisions of this Instrument requiring or authorising anything 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 Director and as, or in the place of, the Secretary.

29.00 **THE SEAL**

29.01 The Directors may provide the ICAV with a Seal. If so provided, the Directors shall provide for the safe custody of the Seal. The Seal shall be used only by the authority of the Directors or of a committee of Directors authorised by the Directors in that behalf. The Directors may from time to time as they see fit determine the persons and the number of such persons who shall authenticate the affixing of the Seal, and until otherwise so determined shall be authenticated by two Directors or by one Director and the Secretary, or some other person duly authorised by the Directors, and the Directors may authorise different persons for different purposes.

29.02 The Directors may by resolution determine whether generally or in any particular case or cases that the signature of any such person authenticating the affixing of the Seal may be affixed by some mechanical means to be specified in such resolution.

30.00 **DIVIDENDS AND RESERVES**

30.01 Subject to the provisions of the Acts, the ICAV may by Ordinary Resolution declare

such dividends on Shares as appear to the Directors to be justified provided always that no dividend shall exceed the amount recommended by the Directors.

- 30.02
- (a) The Directors may if they think fit declare and pay such dividends in respect of any Shares in the ICAV or a Fund as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus or any Supplement with respect to any Fund or Class;
  - (b) The Directors may in their absolute discretion differentiate between the Shares in any Fund and Shares in different Classes within the same Fund as to the dividends declared on such Shares;
  - (c) The Directors may, in their absolute discretion, determine that a dividend or other amount payable in respect of any Share may not be paid to Shareholders who fail to supply satisfactory anti-money laundering or related documentation requested by the ICAV or its delegate.

30.03 The dividend policy for each Fund or Class will be specified in the relevant Supplement.

30.04 The amount available for distribution in respect of any Accounting Period shall be:

- (a) the net investment income of the relevant Fund (whether in the form of dividends, interest or otherwise); and/or
- (b) realised and unrealised gains (i.e. realised and unrealised gains net of realised and unrealised losses) or realised gains net of realised and unrealised losses; and/or
- (c) capital (the Directors may, at such times as they think fit declare dividends on any Class of Shares out of the capital of the relevant Fund); and/or
- (d) other funds as may be lawfully distributed (including fees and expenses) determined in accordance with generally accepted accounting principles;

during the Accounting Period, subject to such adjustments as may be appropriate under the following headings:-

- (a) addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases, cum or ex-dividend;
- (b) addition of a sum representing any interest or dividend or other income accrued but not received by the ICAV in respect of the relevant Fund or Class at the end of the Accounting Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous Accounting Period) interest or dividends or other income accrued at the end of the previous Accounting Period;
- (c) addition of the amount (if any) available for distribution in respect of the

last preceding Accounting Period but not distributed in respect thereof;

- (d) addition of a sum representing the estimated or actual repayment of tax resulting from any claims in respect of corporation tax relief or double taxation relief or otherwise;
- (e) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income or gains of the ICAV in respect of the relevant Fund or Class;
- (f) deduction of a sum representing participation in income paid upon the cancellation of Shares during the Accounting Period;
- (g) deduction of such sum as the ICAV with the approval of the Auditors may think appropriate in respect of expenses of the relevant Fund or Class including but not limited to the Organisational Expenses, Duties and Charges, fees and expenses due to the Auditors, the Secretary, the legal and other professional advisers of the ICAV, the Directors, the Manager, the Depositary, the Administrator, and any Distributor or Investment Manager appointed by the ICAV, all expenses of and incidental to any amendments to the Prospectus and this Instrument for the purpose of procuring that the ICAV conforms to legislation coming into force after the date of incorporation hereof and any other amendments made pursuant to a resolution of the ICAV, expenses comprising all costs, charges, professional fees and disbursements bona fide incurred in respect of the computation, claiming or reclaiming of all taxation reliefs and payments, and any interest paid or payable on borrowings to the extent that such sum has not already been, nor will be deducted pursuant to Clause 2.00 of this Instrument PROVIDED ALWAYS that the ICAV shall not be responsible for any error in any estimates of corporation tax repayments or double taxation relief expected to be obtained or of any sums payable by way of taxation or of income receivable, and if the same shall not prove in all respects correct, the Directors shall ensure that any consequent deficiency or surplus shall be adjusted in the Accounting Period in which a further or final settlement is made of such tax repayment or liability or claim to relief or in the amount of any such estimated income receivable, and no adjustment shall be made to any dividend previously declared.

30.05 The Directors may, with the sanction of an Ordinary Resolution of a Fund, distribute in kind among the Shareholders of such Fund by way of dividend or otherwise any of the assets of the relevant Fund.

30.06 All Shares, unless otherwise determined by the Directors or issued on terms providing that they shall rank for dividend as and from or after a particular date or to a particular extent, shall rank for dividend as from the beginning of the Accounting Period in which they are issued.

30.07 Any resolution declaring a dividend on any Shares may specify that the same shall be payable to the persons registered as Shareholders of such Shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without

prejudice to the rights inter se of transferors and transferees of such Shares in respect of such dividend.

- 30.08 The ICAV may transmit any dividend or other amount payable in respect of any Share at the risk and cost of the relevant Shareholder by cheque or warrant sent by ordinary post to the registered address of the Shareholder, or, in the case of joint Shareholders, to the person whose name and address appears first on the Register or to such person and address as the Shareholder or joint Shareholders may direct, or by wire or electronic transfer at the risk and cost of the relevant Shareholder to a designated account and payment of every such cheque or warrant and transmission by wire or electronic transfer shall constitute a good discharge to the ICAV and the ICAV shall not be responsible for any loss arising in respect of such payment or transmission.
- 30.09 No dividend or other amount payable to any Shareholder shall bear interest against the ICAV. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the relevant Fund until claimed. Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a Share into a separate account shall not constitute the ICAV a trustee in respect thereof. Subject to Section 623 of the Act any dividend unclaimed after six years from the date when it first became payable or on the winding up of the ICAV, if earlier, shall be forfeited automatically and shall revert to the relevant Fund, without the necessity for any declaration or other action by the ICAV.
- 30.10 At the request of any Shareholder in a particular Fund or Class, the Directors may apply all dividends declared on all Shares held by such Shareholder in the issue to that Shareholder of such number of additional Shares in the relevant Fund or Class as are as nearly as possible equal in value to but not in excess of the amount of such dividends at the date of issue of such additional Shares and otherwise on such terms as the Directors from time to time may resolve provided however that subject to Clause 30.11 hereof such Shareholder shall be entitled to revoke such request with respect to all Shares in the relevant Fund or Class held by him and instead receive a cash dividend in respect of such Shares.
- 30.11 (a) Subject to Clause 30.11(b) hereof, the Directors may determine that Shareholders will be entitled to receive in lieu of any dividend (or part thereof) in respect of any Shares in any Fund or Class an issue of additional Shares in proportion to the number of Shares held by them in the relevant Fund or Class credited as fully paid and in any such case the following provisions shall apply:-
- (i) the number of additional Shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be as nearly as possible equal in value to but not in excess of the amount of such dividend at the date of issue of such additional Shares;
  - (ii) for such purpose the Directors shall capitalise a sum equal to the aggregate value of dividends in respect of which additional Shares are proposed to be issued and apply the same in paying up in full the appropriate number of additional Shares for issue to the relevant Shareholders credited as fully paid up;

- (iii) the additional Shares so issued shall rank pari passu in all respects with the fully-paid Shares then in issue save only as regards participation in the relevant dividend (or share election in lieu);
  - (iv) the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provision as they may think fit in the case of Shares becoming distributable in fractions so that fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV or the ICAV issues fractions of Shares; and
  - (v) the Directors may on any occasion determine that Shares in lieu of dividends shall not be issued to a Shareholder with a registered address in any territory in which, in the absence of a registration statement or other special formalities, the issue of additional Shares would or might be unlawful and in such event the provisions aforesaid shall be read and construed subject to such determination.
- (b)
- (i) An applicant for or transferee of Shares may elect by service of notice in writing on the ICAV, at the time of application for or other acquisition of Shares, to receive cash in lieu of additional Shares in satisfaction of the whole of any dividends that may be payable on all Shares of the particular Fund or Class which may thereafter be registered in his name and may on the giving of one month's notice in writing to the ICAV or such lesser period as the Directors may determine revoke any election so made with respect to dividends declared after the expiration of such notice period.
  - (ii) An election made pursuant to this Clause shall be personal to the holder of Shares concerned in his capacity as a holder and, in respect of any Shares transferred, shall automatically cease to have effect upon registration of the transfer or transmission of the relevant Shares but shall continue in effect in respect of Shares retained.

30.12 If several persons are registered as joint holders any one of them may give receipts for dividends or monies payable to them in respect of Shares.

30.13 Before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the ICAV such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the ICAV may be properly applied and at the like discretion may be either employed in the business of the ICAV or invested in the acquisition of such Investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the ICAV shall not be mixed with any reserve to which profits

available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.

30.14 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the payment of a distribution to a Shareholder (whether in cash or otherwise), the Directors may arrange for the deduction from the proceeds due to be paid of a cash amount equal to the liability or in their discretion in accordance with Clause 10.00 hereof the compulsory redemption and cancellation of such number of Shares of such Shareholder as is sufficient to discharge any such liability and the relevant Shareholder shall indemnify the ICAV against any loss suffered by it in connection with any obligation or liability to so deduct, withhold or account.

30.15 The Directors may be obliged and will be entitled to deduct an amount in respect of Irish taxation from any distribution payable to a Shareholder in any Class who is not or is deemed not to be an exempt Irish investor and pay such sum to the Irish tax authorities.

### 31.00 **CAPITALISATION OF PROFITS AND RESERVES**

31.01 The ICAV in general meeting may resolve, upon the recommendation of the Directors, that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts (including capital reserves) or to the credit of the profit and loss account or which is otherwise available for distribution and not required for payment of dividend on any Shares with a preferential right to dividend amongst the Shareholders who would have been entitled thereto if distributed by way of dividend and in the same proportion on condition that the same be not paid in cash but be applied either in or towards paying up in full unissued Shares of the ICAV to be allotted and distributed credited as fully paid up to and amongst such Shareholders in the proportion aforesaid, or partly in one way and partly in the other, and the Directors shall give effect to such resolution.

31.02 Without prejudice to any powers conferred on the Directors as aforesaid, the ICAV in general meeting may resolve, on the recommendation of the Directors, that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts or to the credit of the profit and loss account which is not available for distribution by applying such sum in applying up in full unissued shares to be allotted as fully paid bonus shares to those Shareholders of the ICAV who would have been entitled to that sum if it were distributable and had been distributed by way of dividend (and in the same proportions) and the Directors shall give effect to such resolution.

31.03 Whenever such a resolution is passed in pursuance of either of the two immediately preceding Clauses, the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby and all allotments and issues of fully paid shares, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provisions as they shall think fit for payment in cash or otherwise in the case of Shares becoming distributable in fractions and to authorise any person to enter on behalf of all the Shareholders entitled thereto into an agreement with the ICAV providing for the allotment to them respectively, credited as fully paid up, of any further Shares to

which they may become entitled upon such capitalisation or (as the case may require) for the payment up by the ICAV on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing Shares, and any agreement made under such authority shall be effective and binding on all such Shareholders.

**32.00 EQUALISATION ACCOUNT**

32.01 The Directors may from time to time at their discretion operate an equalisation account in respect of one or more Funds on such basis as may be determined by them including one or more equalisation accounts into which shall be credited or paid amounts paid by subscribers for Shares which the Directors estimate represent the portion of the Subscription Price estimated by the Directors as attributable, as at the date of issue of such Shares, to the amount which may be declared as dividends or the Shares in respect of which an equalisation account is maintained (an "Equalisation Payment") in the current Accounting Period and the Directors may provide for the payment out of such account or accounts of capital sums in the amount hereinafter provided to Shareholders holding Shares on which Equalisation Payments were paid or deemed to be paid at the time of making payment of the first dividend declared in respect of the Accounting Period in which the Equalisation Payment was made but prior to such redemption of shares or upon such basis as the Directors in their discretion, following consultation with the Auditors, determine.

32.02 The capital sum payable pursuant to Clause 32.01 above shall be an amount equal to the Equalisation Payment paid or deemed to be paid on the issue of a 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 and in so doing such Shares may be divided into two or more groups issued within different periods as may be selected by the Directors in any one accounting period so that 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 that in no circumstances shall the capital sum payable in respect of any one Share pursuant to this paragraph exceed the amount of the dividend declared on such Share.

32.03 Any capital sums repaid to a Shareholder in accordance with the provisions of this Clause shall release the ICAV from any liability to repay to such 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.

**33.00 ACCOUNTS**

33.01 The Directors shall cause to be kept adequate accounting records as are necessary in relation to the conduct of its business or as are required by the Act and the Regulations so as to enable the accounts of the ICAV to be prepared.

33.02 The accounting records shall be kept at the Office, or, subject to the Act, at such other place or places as the Directors shall think fit, and shall at all times be open to the inspection of the Directors, but no person, other than a Director, the Auditor or

the Central Bank shall be entitled to inspect the financial statements or accounting records of the ICAV, except as provided by the Act or authorised by the Directors or by the ICAV in general meeting.

- 33.03 A balance sheet of the assets and liabilities of each Fund shall be made out as at each Accounting Date and shall be audited by the Auditors and laid before the ICAV at its annual general meeting in each year, and such balance sheet shall contain a general summary of the assets and liabilities attributable to each Fund. The balance sheet of each Fund shall be accompanied by a report of the Directors as to the financial state and condition of the ICAV and the relevant Fund, and the amount (if any) which they have carried or propose to carry to reserve, together with a revenue/profit and loss account. The balance sheet of each Fund and the report of the Directors and the revenue/profit and loss account shall be signed on behalf of the Directors by at least two of the Directors. The Auditors' report shall be attached to the balance sheet of each Fund. The Auditors' report shall be made available to Shareholders.
- 33.04 The Directors shall cause to be audited and certified by the Auditors an Annual Report relating to the management of the ICAV as of the Accounting Date in each year. Such Annual Report shall be in a form approved by the Central Bank and shall contain such information required by it and shall contain such information required by the Regulations and the Act. There shall be attached to such Annual Report such additional information and reports as the Central Bank may specify.
- 33.05 Copies of the said Annual Report shall be sent by the ICAV to all Shareholders (by post or, where a Shareholder so elects, by electronic mail or by any other means of communication (including by placing a copy of such document on the website of the ICAV)) at least once in every year but not later than four months after the end of the period to which they relate.
- 33.06 The Auditors' certificate appended to the Annual Report and statement referred to in this Instrument shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined with the books and records of the ICAV in relation thereto and that the Auditors have obtained all the information and explanations they have required and the Auditors shall report whether the accounts are in their opinion properly drawn up in accordance with such books and records and present a true and fair view of the state of affairs of the ICAV, and whether the accounts are in their opinion properly drawn up in accordance with the provisions of this Instrument.
- 33.07 Notwithstanding any other requirement in the Instrument, separate accounts may be prepared and present in the respect of a Fund or Funds and all references to the ICAV be read as, where appropriate, referring to the Fund or Funds in respect of which the separate accounts are to be prepared.
- 34.00 **AUDIT**
- 34.01 The ICAV shall at each annual general meeting appoint an Auditor or Auditors to hold office until the conclusion of the next annual general meeting.
- 34.02 If an appointment of Statutory Auditors is not made at an annual general meeting, the Minister for Enterprise, Trade and Employment for the time being may, on the application of any Shareholder, appoint an Auditor of the ICAV for the current year



and fix the remuneration to be paid to him by the ICAV for his service.

- 34.03 The appointment and removal of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the Act.
- 34.04 A person, other than a retiring Auditor, shall not be capable of being appointed Auditor at an annual general meeting unless notice of an intention to nominate that person to the office of Auditor has been given by a Shareholder to the ICAV not less than twenty eight days before the annual general meeting and the Directors shall send a copy of any such notice to the retiring Auditor and shall give notice thereof to the Members in accordance with Section 382 of the Act.
- 34.05 The first Auditors shall be appointed by the Directors before the first general meeting, and they shall hold office until the conclusion of the first annual general meeting unless previously removed by a resolution of the ICAV in general meeting, in which case the Shareholders at such meeting may appoint Auditors.
- 34.06 The Directors may fill any casual vacancy in the office of Auditor, but while any such vacancy continues the surviving or continuing Auditor or Auditors (if any) may act.
- 34.07 The remuneration of the Auditors shall be approved by the ICAV in general meeting or determined in such manner as the ICAV in general meeting may resolve.
- 34.08 The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- 34.09 The report of the Auditors to the Shareholders on the audited accounts of the ICAV shall state whether in the Auditors' opinion the balance sheet and profit and loss account and (if the ICAV has any subsidiary or associated companies and is submitting group accounts) the group accounts in their opinion give a true and fair view of the state of the ICAV's affairs and of its profit and loss for the period in question.
- 34.10 The Auditors shall be furnished with a list of all books kept by the ICAV and shall at all reasonable times have the right of access to the books and accounts and vouchers of the ICAV and shall be entitled to require from the Directors and officers of the ICAV such information and explanations as may be necessary for the performance of their duties.
- 34.11 The Auditors shall be entitled to attend any general meeting of the ICAV and to receive all notices of, and other communications relating to, any general meeting which any Member of the ICAV is entitled to receive and to be heard at any general meeting at which any business of the meeting concerns them as auditors.
- 34.12 The Auditors shall, on quitting office, be eligible for re-election.

35.00 **NOTICES**

- 35.01 Any notice or other document required to be served upon or sent to a Member may be given by posting or delivery to or leaving the same at his address as appearing on the Register or by transmitting the same by fax or other means of Electronic Communication to a fax number, e-mail address or other electronic identification provided to the ICAV or its delegate or by such other means as the Directors may

determine and notify in advance to Members. Any such notices or documents shall be deemed to have been duly given if sent by pre-paid post 48 hours after posting and if delivered to or left at the Member's address as appearing on the Register on the day of delivery or on the next working day if delivered or left outside usual business hours and if sent by fax on the day of receipt of a transmission receipt and if sent by Electronic Communication when it has been transmitted to the electronic information system designated by the Member for the purpose of receiving Electronic Communications and otherwise as determined by the Directors and notified in advance to Members and in the case of joint Members shall be deemed duly given if so done upon or to the first named on the Register. Any notice may be given by advertisement and shall be deemed to have been duly given if published in a national daily newspaper circulating in the country or countries where Shares are marketed or an advertisement is published stating where copies of such notices or documents may be obtained.

35.02 Service of a notice or a document on the first named of several joint Members shall be deemed effective service on that person and the other joint Members.

35.03 Any notice or document served or sent in accordance with this Instrument shall notwithstanding that such Member be then dead or bankrupt and whether or not the ICAV has notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the Shares concerned.

35.04 Any certificate or notice or other document which is served on or sent or given to a Member in accordance with this Instrument or dispatched by or on behalf of the ICAV in accordance with a Member's instructions shall be so served or sent or given at the risk of such Member.

35.05 Any notice in writing or other document in writing required to be served upon or sent or given to the ICAV shall be deemed to have been duly given if sent by pre-paid post to the Office upon receipt and if left at the Office on the next day and otherwise in accordance with any procedures specified in the Prospectus with respect to service of notice in specific circumstances.

36.00 **WINDING UP**

36.01 The ICAV may be wound up if:

- (a) at any time after the first anniversary of the incorporation of the ICAV, the Net Asset Value of the ICAV falls below US\$5 million on each Dealing Day for a period of six consecutive weeks and the Shareholders resolve by Ordinary Resolution to wind up the ICAV;
- (b) an event specified at Clause 3.09 hereof has occurred and the Shareholders resolve by Ordinary Resolution to wind up the ICAV;
- (c) the Shareholders resolve by Ordinary Resolution that the ICAV by reason of its liabilities cannot continue its business and that it be wound up; or
- (d) the Shareholders resolve by Special Resolution that the ICAV be wound

up.

- 36.02 In the event of a winding up the liquidator shall apply the assets of each Fund in such manner and order as he thinks fit in satisfaction of creditors' claims.
- 36.03 The assets available for distribution among the Shareholders shall be applied in the following priority:
- (i) Firstly, in the payment to the Shareholders of each Class or Fund of a sum in the Base Currency (or in any other currency selected and at such rate of exchange as determined by the liquidator) as nearly as possible equal to the Net Asset Value of the Shares of the relevant Class or Fund held by such Shareholders respectively as at the date of commencement of winding up.
  - (ii) Secondly, in the payment to the holders of the Non-Participating Shares of sums up to the nominal amount paid up thereon out of the assets of the ICAV not comprised within any Funds provided that if there are insufficient assets to enable such payment in full to be made, no recourse shall be had to the assets comprised within any of the Funds.
  - (iii) Thirdly, in the payment to the Shareholders of each Class or Fund of any balance then remaining in the relevant Fund, in proportion to the number of Shares of the relevant Class or Fund held.
  - (iv) Fourthly, any balance then remaining and not attributable to any Fund or Class shall be apportioned between the Funds and Classes pro-rata to the Net Asset Value of each Fund or attributable to each Class immediately prior to any distribution to Shareholders and the amounts so apportioned shall be paid to Shareholders pro-rata to the number of Shares in that Fund or Class held by them.
- 36.04 The liquidator may with the authority of an Ordinary Resolution of the ICAV or with the prior written approval of the Shareholders of the Fund, divide among the Shareholders (pro rata to the value of their respective shareholdings in the ICAV) in specie the whole or any part of the assets of the ICAV, and whether or not the assets shall consist of property of a single kind provided that the ICAV shall if any Shareholder so requests sell any asset or assets proposed to be so distributed and distribute to such Shareholder the cash proceeds of such sale less the costs of any such sale which shall be borne by the relevant Shareholder. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, provided that no Shareholder shall be compelled to accept any asset in respect of which there is any liability. Further the liquidator may with like authority transfer the whole or part of the assets of the ICAV to a company or collective investment scheme (the "Transferee ICAV") on terms that Shareholders in the ICAV shall receive from the Transferee ICAV shares or units in the Transferee ICAV of equivalent value to their shareholdings in the ICAV.
- 36.05 Notwithstanding any other provision contained in this Instrument, should the Directors at any time and in their absolute discretion resolve that it would be in the best interests of the Shareholders to wind up the ICAV, the Secretary shall forthwith at the Directors' request convene an extraordinary general meeting of the ICAV at

which there shall be presented a proposal to appoint a liquidator to wind up the ICAV and if so appointed, the liquidator shall distribute the assets of the ICAV in accordance with the provisions of this Clause 36.00.

**37.00 INDEMNITY AND INSURANCE**

- 37.01 (i) Every person who is or has been a Director or alternate Director or Secretary or servant of the ICAV and such person's heirs, administrators and executors, shall be indemnified and secured harmless out of the assets and profits of the ICAV from and against all actions, costs, debts, claims, demands, suits, proceedings, judgements, decrees, charges, losses, damages, expenses, liabilities or obligations of any kind which he or his heirs, administrators or executors shall or may incur or sustain by reason of any contract entered into or any act done, concurred in, or omitted to be done by virtue of his being or having been a Director, Secretary or servant, provided that as permitted by the Act such indemnity shall not extend to any of the foregoing sustained or incurred as a result of any fraud, negligence or wilful default by him in relation to the ICAV 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.
- (ii) The words "claim", "action", "suit" or "proceedings" shall apply to all claims, actions, suits or proceedings (civil, criminal, administrative, legislative, investigative or other, including appeals) and shall include, without limitation, legal fees, costs, judgements, amounts paid in settlement, fines, penalties and other liabilities;
- (iii) The rights of indemnification herein provided shall be severable, shall not affect any other rights to which any Director, Secretary or employee may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, Officer or employee and shall ensure to the benefit of the heirs, executors and administrators of such a person;
- (iv) The ICAV may make advances of expenses incurred in the defence of any claim, action, suit or proceedings against any person whom the ICAV is obliged to indemnify pursuant to this Clause.
- 37.02 The Directors shall have the power to purchase and maintain for the benefit of any persons who are or were at any time Directors or officers of the ICAV insurance against any liability incurred by such persons in respect of any act or omission in the execution or discharge of their duties or in the exercise of their powers, and the Directors shall be entitled to vote and be counted in the quorum in respect of any resolution concerning the purchase of such insurance.
- 37.03 The Manager, the Administrator, the Depositary, the Investment Manager, the Distributor and any other person shall be entitled to such indemnity from the ICAV upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the cost thereof as shall be provided under the Management Agreement, the Administration Agreement, the Depositary Agreement, the Investment Management Agreement or the Distribution Agreements (as applicable) and the provisions in relation to indemnification set out in Clause 37.01 hereof shall

apply as appropriate to any such indemnity provided that no such indemnity shall extend to any matters arising from the negligence, fraud or wilful default of the person so indemnified and in the case of the Depositary its unjustifiable failure to perform its obligations or its improper performance of them and/or its failure to adhere to its obligations as set out in the Regulations;

37.04 The ICAV, the Manager, the Investment Manager, the Administrator and the Distributors shall be entitled to rely absolutely on any Standing Redemption and Payment Instructions and on any declaration received from a Shareholder or his agent as to residence or otherwise of such Shareholder and shall not incur liability in respect of any action taken or thing suffered by any of them in good faith in reliance upon any paper or document believed to be genuine and to have been sealed or signed by the proper parties nor be in any way liable for any forged or unauthorised signature on or any common seal affixed to any such document or for acting on or giving effect to any such forged or unauthorised signature or common seal but shall be entitled though not bound to require the signature of any person to be verified by a banker, broker or other responsible person or otherwise authenticated to its or their satisfaction.

37.05 The ICAV, the Manager, the Investment Manager, the Administrator and the Distributors shall incur no liability to the Shareholders for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto, or of any decree, order or judgment of any court, or by reason of any request announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Instrument none of the ICAV or the Manager or the Investment Manager or the Administrator or the Distributors or the Depositary shall be under any liability therefor or thereby.

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

## 38.00 **DESTRUCTION OF DOCUMENTS**

38.01 The ICAV may destroy:-

- (a) any dividend mandate or any variation or cancellation thereof or any notification of change of name or address at any time after the expiry of two years from the date such mandate, variation, cancellation or notification was recorded by the ICAV;
- (b) any instrument of transfer of Shares which has been registered at any time after the expiry of six years from the date of registration thereof; and
- (c) any other document on the basis of which an entry in the Register is made at any time after the expiry of ten years from the date an entry in the Register was first made in respect of it; and it shall conclusively be presumed in favour of the ICAV that every instrument of transfer so destroyed was a valid and effective instrument duly and properly

registered and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the ICAV PROVIDED ALWAYS that:-



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

39.00 **AMENDMENT OF INSTRUMENT**

39.01 This Instrument shall not be amended without the prior approval of the Central Bank.

39.02 No amendment may be made to this Instrument save in accordance with the requirements of section 31 of the Act.

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

Names, addresses and description of Subscribers (written in full)	Number of shares
Simmons & Simmons Subscriber One Limited Waterways House Grand Canal Quay Dublin 2 Ireland  Corporate Entity	One (1) 
Simmons & Simmons Subscriber Two Limited Waterways House Grand Canal Quay Dublin 2 Ireland  Corporate Entity	One (1) 
<hr/>	
Total Number of non-participating shares taken:	Two (2)

Witness to the above signatures: 

Dated: 1 October 2021