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**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND PLC**

**(an umbrella investment company with variable capital authorised by the Central Bank of Ireland with segregated liability between its sub-funds and incorporated in Ireland with registered number 345142).**

**CIRCULAR TO SHAREHOLDERS**

**This circular to Shareholders in J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND PUBLIC LIMITED COMPANY (the “Company”) contains notice of an Annual General Meeting of the Company scheduled for Tuesday, 15 August 2023 and a Form of Proxy.**

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## **J O Hambro Capital Management Umbrella Fund Plc (the “Company”)**

Dear Shareholder

**Re: Notice of the Company’s Annual General Meeting**

### **Notice of an Annual General Meeting of the Company and Action Required**

The Annual General Meeting (the “AGM”) of the Shareholders of the Company is to consider the resolutions outlined in the Notice of the AGM as attached at Appendix I and to vote on these resolutions. The resolutions also include a proposal to convert the Company to an Irish Collective Asset-management Vehicle (“ICAV”) and, subject to the resolution to convert the Company to ICAV status being passed, to change the name of the Company, each as further described below.

### **Rationale and description of the amendments for the conversion of the Company to an ICAV and the replacement of the Constitution.**

The Irish Collective Asset-management Vehicle Act 2015 (the “ICAV Act”) introduced a new corporate investment vehicle, the ICAV, and has been the corporate vehicle of choice for the majority of Irish funds since the ICAV Act was enacted. The ICAV offers a more cost and administratively efficient structure for investment funds and provides certain benefits that the current public limited company structure does not facilitate:

- I. a tailored structure for investment funds which means the ICAV is not subject to those aspects of company law which are irrelevant or inappropriate for funds and their investors; and
- II. the ability to dispense with the holding of an AGM, however material changes to the Company would still require shareholder approval.

In order to take advantage of these benefits, it is proposed that the Company be converted from a public limited company to an ICAV pursuant to the ICAV Act by way of an application to the Central Bank of Ireland pursuant to Section 140 of the ICAV Act.

### **Rationale for proposed change of name**

Following the acquisition, by Perpetual Limited, of the Pendal Group (the parent company of J O Hambro Capital Management Limited), it has been decided to consolidate into the umbrella structure of the Company all of the UCITS funds managed by the various investment managers within the Perpetual Investment Services Europe ICAV.

It is therefore proposed that (i) the Constitution of the Company (a redlined copy of which is attached hereto at Appendix III) be updated to provide the Company with the constitutional authority to facilitate the proposed conversion; (ii) the Company be converted to ICAV status, (iii) the name of the Company be changed from “J O Hambro Capital Management Umbrella Fund Public Limited Company” to “Perpetual Investment Services Europe ICAV” to reflect the proposed conversion and an ongoing corporate restructuring and (ii) once the relevant updates have been made to the Constitution and it has been filed with the Companies Registration Office and Central Bank of Ireland, the

Constitution be replaced by a new constitutional document, particular to an ICAV, called the Instrument of Incorporation, a copy of which is included at Appendix IV.

**It is important to note that the Company and its sub-funds will remain Undertakings for the Collective Investment in Transferable Securities (UCITS) and will continue to be subject to the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended by the European Union (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2016.**

The Directors are of the opinion that the conversion of the Company to an ICAV and the proposed amendments to the Constitution set out below are in the best interests of the Company and Shareholders as a whole.

Pursuant to the ICAV Act, the conversion will be effected by way of a continuation and therefore it will not prejudice or affect the identity or continuity of the Company nor will it affect any contract made, resolution passed or any other act or thing done in relation to the Company. For the avoidance of doubt, there will be no change of legal entity.

Shareholder Notices are included at Appendix V.

#### **Prospectus and Supplement updates**

In addition, the prospectus of the Company and the supplements in respect of the sub-funds of the Company will be amended to reflect the conversion to an ICAV.

#### **Voting by Proxy**

The Form of Proxy accompanying the notice of the AGM of the Company is enclosed with this circular at Appendix II is for use in relation to the AGM of the Company and should be completed and returned in accordance with the instructions thereon, so as to be received as soon as possible and in any event not later than 48 hours before the time fixed for the holding of the AGM

Proxies may be emailed to [Bridget.Gallagher@mccannfitzgerald.com](mailto:Bridget.Gallagher@mccannfitzgerald.com) for the attention of Bridget Gallagher, or by post to Riverside One, Sir John Rogerson's Quay, Dublin 2, D02 X576, Ireland, to be received not later than 48 hours in advance of the AGM.

#### **Recommendation**

The Directors recommend that you vote in favour of the resolutions proposed.

We urge you to return the necessary documentation at your earliest convenience.

Yours sincerely



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Director

For and on behalf of J O Hambro Capital Management Umbrella Fund Plc

**APPENDIX I**  
**NOTICE OF ANNUAL GENERAL MEETING**

**OF**  
**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND PLC**  
**(the “Company”)**

**NOTICE IS HEREBY GIVEN** that an Annual General Meeting of the Company will be held at Riverside One, Sir John Rogerson’s Quay, Dublin 2, D02 X576, Ireland on Tuesday, 15 August 2023, at 3.00pm GMT for the transaction of the following business:

**Ordinary Business:**

1. Following a review of the Company’s affairs, to receive and consider the Company’s Financial Statements for the financial year ending 31 December 2022, together with the Reports of the Directors and Auditors;
2. To re-appoint EY as the Company’s Statutory Auditors and authorise the Directors to fix the remuneration of the Statutory Auditors;

**Special Business:**

3. To approve the updates to the Company’s Constitution (a redlined copy of which is attached hereto at Appendix III) in order to facilitate the Company’s conversion to an ICAV (the “**Conversion**”);
4. To approve the Conversion and the Company’s application to the Central Bank of Ireland to be registered as an ICAV by way of continuation, and that, in turn, the Instrument of Incorporation to be used in the context of the Conversion (a copy of which is attached hereto at Appendix IV) be adopted;
5. Subject to the resolutions above being passed, to approve a change of name of the Company from “J O Hambro Capital Management Umbrella Fund Public Limited Company” to “Perpetual Investment Services Europe ICAV”.

By Order of the Board  
HMP Secretarial Limited  
Company Secretary  
24 Fitzwilliam Place  
Dublin 2  
D02 T296  
Ireland

Dated: 21 July 2023

**Notes:**

1. Shareholders are entitled to attend and vote at the Annual General Meeting of the Company. A Shareholder may appoint a proxy or proxies to attend, speak and vote instead of the Shareholder. A proxy need not be a Shareholder of the Company.

2. A form of proxy is enclosed for the use of Shareholders unable to attend the meeting. Proxies may be emailed to [Bridget.Gallagher@mccannfitzgerald.com](mailto:Bridget.Gallagher@mccannfitzgerald.com) or sent by post to Riverside One, Sir John Rogerson's Quay, Dublin 2, Ireland, marked for the attention of Bridget Gallagher, and must be received not less than 48 hours before the time fixed for the AGM (the "**Proxy Filing Deadline**"). For the avoidance of doubt, each Shareholder's voting entitlements will be determined at the Proxy Filing Deadline.

## APPENDIX II

### J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND PLC

(the “Company”)

#### FORM OF PROXY

For use at the Annual General Meeting to be held on  
Tuesday, 15 August 2023, at 3.00pm GMT and at any adjournment thereof

I/We (Block Letters) \_\_\_\_\_ of  
\_\_\_\_\_ being a member / members of the  
Company hereby appoint \_\_\_\_\_ of \_\_\_\_\_ or failing him or her, the  
Chairperson, or failing him or her, Bridget Gallagher or Ray Hunt or Siobhan Daly or Jennifer Warren  
or Niamh Corcoran or Irene O'Connor, all of McCann FitzGerald, Riverside One, Sir John Rogerson's  
Quay, Dublin 2, D02 X576, Ireland as my / our proxy to attend speak and vote for me / us on my / our  
behalf at the Annual General Meeting of the Company to be held on Tuesday, 15 August 2023, and at  
any adjournment thereof. I / We direct that my / our vote(s) be cast on the specified Resolution[s] as  
indicated by an X in the appropriate box:

Voting Instructions to Proxy (choice to be marked with an “x”)			
Number or description of resolution:	In Favour	Abstain	Against
<b>Ordinary Resolutions:</b>			
1. To receive and consider the Company's Financial Statements for the financial year ending 31 December 2022 together with the Reports of the Directors and Auditors.			
2. To re-appoint EY as the Company's Statutory Auditors and authorise the Directors to fix the remuneration of the Statutory Auditors.			
<b>Special Resolutions:</b>			
3. To approve, by way of special resolution, the updates to the Company's Constitution (a redlined copy of which is attached hereto at Appendix III) in order to facilitate the Company's conversion to an ICAV (the “Conversion”).			
4. To approve, by way of special resolution, the Conversion and the Company's application to the Central Bank of Ireland to be registered as an ICAV by way of continuation, and that, in turn, the Instrument of Incorporation to be used in the context of the Conversion (a copy of which is attached hereto at Appendix IV) be adopted.			
5. Subject to the resolutions above being passed, to approve, by way of special resolution, the change of name of the Company			

from "J O Hambro Capital Management Umbrella Fund Public Limited Company" to "Perpetual Investment Services Europe ICAV".			
Unless otherwise instructed the proxy will vote as he or she thinks fit.			

Dated: \_\_\_\_\_

Signature of Shareholder: \_\_\_\_\_

**Notes for the Proxy Form:**

- (a) A Shareholder must insert their full name and registered address in type or block letters. In the case of joint accounts the names of all holders must be stated.
- (b) If it is desired to appoint some other person as proxy, the name of the proxy must be inserted in the space provided instead of the option provided which should be deleted.
- (c) The proxy form must
  - (i) in the case of an individual Shareholder be signed by the Shareholder or their attorney; and
  - (ii) in the case of a corporate Shareholder be given either under its common seal or signed on its behalf by an attorney or by a duly authorised officer of the corporate Shareholder.
- (d) In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the register of members in respect of the joint holding.
- (e) To be effective, the Form of Proxy duly signed, together with the power of attorney (if any) under which it is signed, must be emailed to [Bridget.Gallagher@mccannfitzgerald.com](mailto:Bridget.Gallagher@mccannfitzgerald.com) or sent by post for the attention of Bridget Gallagher, Riverside One, Sir John Rogerson's Quay, Dublin 2, D02 X576, Ireland, **to be received not later than 48 hours in advance of the AGM.**
- (f) A proxy need not be a shareholder of the Company but must attend the meeting in person to represent you.

## APPENDIX III



**THE COMPANIES ACT 2014**  
**AND**  
**EUROPEAN COMMUNITIES (UNDERTAKINGS FOR**  
**COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES)**  
**REGULATIONS 2011 (AS AMENDED)**

**CONSTITUTION**

**OF**

**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND**  
**PUBLIC LIMITED COMPANY**  
(as amended by Special Resolution dated ~~6 September 2021~~ [ . ] 2023)

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**INVESTMENT COMPANY WITH**  
**VARIABLE CAPITAL**

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

**McCann FitzGerald**  
Solicitors  
Riverside One  
Sir John Rogerson's Quay  
Dublin 2  
SSH\39950611.3

**THE COMPANIES ACT 2014**  
**AND**  
**EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE**  
**INVESTMENT IN TRANSFERABLE SECURITIES) REGULATIONS 2011 (AS**  
**AMENDED)**  
**INVESTMENT COMPANY WITH VARIABLE CAPITAL**  
**AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS**  
**MEMORANDUM OF ASSOCIATION**  
**OF**  
**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND**  
**PUBLIC LIMITED COMPANY**

(as amended by Special Resolution dated ~~6-September-2021~~ [ ] 2023)

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1. The name of the Company is J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND PUBLIC LIMITED COMPANY.
2. The Company is a public limited company registered for the purposes of Part 17 of the Companies Act 2014.
3. The sole object for which the Company is established is the collective investment in transferable securities and/or other liquid financial assets of capital raised from the public, operating on the principle of risk-spreading, as permitted by Regulation 68 of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended, and as may be further amended from time to time, of capital raised from the public, operating on the principle of risk spreading. For the purposes of achieving this sole object, the Company will have the following powers, which will be exercised in accordance with the Regulations referred to above:-
  - (1) To carry on business as an investment company, to acquire by original subscription or otherwise, invest in and hold by way of investment shares, stocks, debentures, debenture stock, bonds, obligations, certificates of deposit, treasury bills, trade bills, bank acceptances, bills of exchange, promissory notes and securities of all kinds created or issued or guaranteed by any government or governmental or like authority or otherwise, in any part of the world, or by any company, organisation, bank, association or partnership, whether with limited or unlimited liability, constituted or carrying on business in any part of the world, units of or participations in any unit trust scheme, mutual fund or Collective Investment Scheme in any part of the world, policies of assurance and insurance, domestic and foreign currency and any present or future rights and interests to or in any of the foregoing, futures contracts, options contracts, swap contracts, contracts for differences and

currency forward exchange contracts 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.

- (2) To deposit money and/or securities and to deal in bills, notes, warrants, coupons, and other negotiable or transferable securities or documents.
- (3) To acquire for the purpose of its business lands and real or personal property of any kind and generally to manage, deal with and improve the property of the Company, and to sell, lease, let, mortgage or otherwise dispose of the lands and other property of the Company.
- (4) To borrow or raise money in any currency and secure or discharge any debt or obligation of or binding on the Company in any manner.
- (5) To guarantee the payment of money by or the performance of any contracts, liabilities, obligations of every description of any company, firm or person and to grant guarantees and indemnities of every description.
- (6) To enter into any arrangements with any government or governmental or like authority, and to obtain from any such government or authority any rights and benefits that may seem conducive to the objects of the Company or any of them.
- (7) To act as secretaries, managers, registrars, transfer agents or as trustees for any person, firm or company, and to carry on any kind of financial, agency, broking or other operations.
- (8) To enter into partnerships or into any arrangement for sharing profits, joint venture, reciprocal concessions or co-operation with any person.
- (9) To establish and/or carry on any other business which may be conveniently carried on in connection with any business which the Company is authorised to carry on.
- (10) To promote any company or companies for the purpose of its or their acquiring all or any of the property, rights and liabilities of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit the Company, and to pay all the expenses of or incidental to such promotion.
- (11) To pay out of the funds of the Company all expenses which the Company may lawfully pay incidental to the formation, registration and advertising of or raising money for the Company and the issue of its capital, including brokerage and commissions for obtaining applications for or taking, placing or underwriting shares or debentures. For the avoidance of doubt, all fees and expenses properly incurred by the Funds of the Company may be charged to the capital of the Company.

- (12) To do all such other things as the Company may deem incidental or conducive to the attainment of any of the aforesaid objects of the Company.
- (13) To procure the Company to be registered or recognised in any country or place abroad.
- (14) To engage in currency and interest rate transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or from any other risk or factor affecting the Company's business, including but not limited to dealings, whether involving purchases, sales or otherwise in foreign and Irish currency, spot and forward exchange rate contracts, forward rate agreements, contracts for differences, caps, floors and collars, futures, options, swaps, and any other currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of, any of the foregoing.

The objects, purposes and powers specified in each of the paragraphs of this clause shall be regarded as independent objects, purposes and powers, and accordingly shall not be limited or restricted (except where otherwise expressed in such paragraph) by the matters indicated in any other paragraph or the order in which the same occur or by reference to the name of the Company.

And it is hereby declared that the word "company" (except where used in reference to the Company) in this Clause shall be deemed to include any partnership or other body of persons, whether or not incorporated.

4. The share capital of the Company is €40,000, divided into 40,000 Subscriber Shares of one euro (€1.00) each and 500,000,000,000 Participating Shares of no par value.

4.5. Subject to applicable law and the provisions of Article 154 of the Articles of Association of the Company, the Company shall have the power to convert to an Irish collective-asset management vehicle ("ICAV") and to apply to the Central Bank, to be registered as an ICAV by way of continuation or otherwise.

5.6. The liability of each shareholder is limited.

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**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND  
PUBLIC LIMITED COMPANY  
ARTICLES OF ASSOCIATION**

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**THE COMPANIES ACT 2014**  
**AND**  
**EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE  
INVESTMENT IN TRANSFERABLE SECURITIES)  
REGULATIONS 2011 (AS AMENDED)**  
**INVESTMENT COMPANY WITH VARIABLE CAPITAL**  
**AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**J O HAMBRO CAPITAL MANAGEMENT UMBRELLA FUND  
PUBLIC LIMITED COMPANY**

(as amended by Special Resolution dated ~~6-September-2021~~ [ ~~1~~ . ] 2023)

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**INTERPRETATION**

1. Sections 43 (2), 94 (1) 95, 148 (2), 155, 158, 159, 164, 165, 180 (5), 181 (6), 182 (2) and 182 (5), 183 (3), 187, 218 (3), 218 (5), 229 (1), 230, 618 (1)(b), 1090, 1092 and 1113 of the Act shall not apply to the Company.
2. In these Articles, the following words and expressions shall have the following meanings, if not inconsistent with the subject or context.

**“Accounting Date”** such date as the Directors may from time to time decide.

the **“Act”** means the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force.

the **“Acts”** means the Companies Acts 2014 and all statutory instruments which are to be read as one with, or construed or read together as one with, the Act.

**“Administrator”** means the person appointed and for the time being acting as Administrator of the assets of the Company.

the **“Auditor”** means the statutory Auditor or statutory Auditors for the time being of the Company.

**“Business Day”** means unless otherwise determined by the Directors, a day, excluding Saturday or Sunday, on which banks are normally open for business in Dublin, Luxembourg and London.

**“Central Bank”** means the Central Bank of Ireland, or any successor regulator in respect of the Company.

**“Central Bank UCITS Regulations”** means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015 and any other statutory instrument, regulations, rules, conditions, notices, requirements or guidance of the Central Bank issued from time to time applicable to the Company.

**“Close of Business”** means 5.00 pm Irish time on any day or such other time on any day as the Directors, with the consent of the Administrator, may determine for an individual Fund.

**“Collective Investment Scheme”** means:-

- (a) any arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of investments or any other property whatsoever; and
- (b) any other investment vehicle of a similar nature to that described in paragraph (a) of this definition (including, without limitation, an open-ended investment company, mutual fund or fonds commun de placement) and, in relation to any such collective investment scheme, “unit” means any unit, share or other interest (however described) of similar nature in such collective investment scheme.

**“Company”** means the company whose name appears on the heading to these Articles.

**“Contract Note”** means a written confirmation issued by the Company pursuant to Articles 28 to 33 hereof.

**“Dealing Day”** means any Business Day or such other day as the directors may from time to time determine on which Shares in a Fund can be purchased or redeemed as set out in the applicable Supplement for that Fund provided that there should not be less than two Dealing Days in respect of each Fund per month except during a period of suspension of issues and redemptions of Participating Shares as described in Article 23 below provided further that if the Manager, decides to change such day or the interval between such days (other than in the case of a temporary change) it shall give reasonable notice of such change to the Shareholders in the relevant Fund and to the Central Bank in such manner as shall be approved by the Depositary.

**“Depositary”** means the company appointed and for the time being acting as depositary of the assets of the Company pursuant to Articles 7-9 hereof.

**“Depositary Agreement”** means the agreement from time to time subsisting between the Company and the Depositary relating to the appointment and duties of the Depositary.

**“Directors”** means the Directors of the Company for the time being, or as the case may be, the Directors present at a meeting of the board of the Directors or any duly constituted committee thereof.



**“Duties and Charges”** means all stamp and other duties, taxes, governmental charges, brokerage, bank charges, transfer fees, registration fees and other duties and charges arising in connection with any transaction or dealing in any assets of the Company but shall not include any commission charges or costs which may have been taken into account in ascertaining the value of the Net Assets.

**“Electronic Address”** means any address or number used for the purposes of sending or receiving documents or information by Electronic Means.

**“Electronic Means”** are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.

**“Euro”** or **“€”** means the currency referred to in the second sentence of Article 2 of the Council Regulation (EC) No. 974/98 of 3 May 1998 and as adopted as the single currency of the participating European Union Member States.

**“Fund”** means a Fund maintained in accordance with Article 21 hereof in respect of which each class of Participating Shares, to which all assets and liabilities, income and expenditure attributable or allocated to each such class shall be applied or charged.

**“Investment”** means any investment authorised by the Constitution of the Company and which is permitted by Part 8 of the Regulations.

**“Investment Adviser”** means any body corporate, unincorporated body, person or persons or other entity appointed and from time to time acting as investment adviser or investment manager to the Company or, where the Company has appointed a Manager pursuant to Article 6, the Manager.

**“Irish Stock Exchange”** means the Irish Stock Exchange plc.

**“In writing”** includes written or printed or lithographed or photographed or represented by any other substitute for writing or partly one and partly another.

**“Manager”** means any company appointed and from time to time acting as Manager of the Company pursuant to Article 6 hereof, and for the avoidance of doubt, in lieu of any such appointment the powers assigned to the Manager in these Articles shall be vested in the Directors.

**“Management Agreement”** means any agreement from time to time subsisting to which the Company and the Manager are parties relating to the appointment and duties of the Manager.

**“Member”** means a person who is registered as the holder of Participating Shares in the Register of Members for the time being kept by or on behalf of the Company.

**“Member State”** means, for the time being, a member state of the European Union.

**“Minimum Subscription”** means the minimum subscription amount in respect of any Fund as provided for in the applicable Supplement.

**“Month”** means calendar month.

**“Net Assets”** means the net assets of the Company as determined pursuant to Article 22 hereof.

**“Net Asset Value”** means the amount determined by reference to any particular Business Day or Dealing Day, as the case may be, pursuant to Article 22 hereof.

**“OECD”** means the Organisation for Economic Co-operation and Development and any member country thereof, respectively.

**“Office”** means the registered office of the Company.

**“Paid Up”** shall include credited as paid up.

**“Participating Share”** means a Participating Share in the capital of the Company of no par value issued subject to and in accordance with the Acts, the UCITS Rules and the Constitution of the Company with the rights provided for thereunder.

**“Prospectus”** means the prospectus to be issued by the Company (as may be amended or supplemented from time to time) in connection with the authorisation of the Company as an open-ended company by the Central Bank and the initial public offer for its Participating Shares.

**“Recognised Market”** means such markets that meet the regulatory criteria (regulated, operates regularly, recognised and open to the public) and which are listed in the Prospectus and/or Supplement from time to time. With the exception of permitted investments in unlisted securities, the Company will only invest in those securities and derivative instruments listed or traded on a stock exchange or market (including derivative markets) which meet the regulatory criteria mentioned above.

**“Redemption”** shall include repurchase.

**“Redemption Price”** means the price at which Participating Shares shall be redeemed calculated in accordance with Article 18 hereof.

**“Register”** means the register of Members to be kept pursuant to the Acts.

**“Regulations”** means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 as amended, and every regulation or other provision of law modifying or extending them and any regulations or guidelines issued by the Central Bank pursuant thereto from time to time in force.

**“Seal”** means the Common Seal of the Company.

**“Secretary”** means any person appointed by the Directors to perform any of the duties of the Secretary of the Company.

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

**“Shareholder”** means a Member.

**“Shares”** means the Participating Shares or the Subscriber Shares as the case may be.

**“Subscriber Share”** means a subscriber share in the capital of the Company issued in accordance with these Articles.

**“Subscription Price”** means the price at which Participating Shares shall be issued calculated in accordance with Article 16 hereof.

**“Supplement”** means a supplement to the Prospectus containing information relating to a Fund.

**“UCITS”** means an undertaking for collective investment in transferable securities, as defined in the Regulations.

**“UCITS Directive”** means Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions;

**“UCITS Rules”** means all or any of the Regulations, the Central Bank UCITS Regulations and the UCITS Directive, as appropriate.

**“Valuation Date”** means the relevant Business Day on which the Net Asset Value of a Fund is calculated as set out in the applicable Supplement. For the avoidance of doubt, there will be a Valuation Date in respect of each Dealing Day.

**“Valuation Point”** means the relevant time on each Valuation Date at which the Net Asset Value of a Fund is calculated as set out in the applicable Supplement.

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

3. In these Articles, 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.
4. Subject to the last two preceding Articles, any words or expressions defined in the Acts or in the UCITS Rules shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

## **PRELIMINARY**

5. The preliminary expenses incurred in forming the Company and in connection with the initial issue of its Participating Shares were paid by the Company.

## **MANAGEMENT**

6. (1) The Directors may appoint any company qualified to act as manager of a UCITS pursuant to the UCITS Rules and which has the approval of the Central Bank to act as Manager of the Company and may entrust to and confer upon the Manager so appointed any of the powers exercisable by them as Directors, upon such terms and conditions including the right to remuneration payable by the Company and with such powers of delegation and restrictions as they think fit and either collaterally with or to the exclusion of their own powers. The Manager may retire or be removed by the Company in accordance with the terms of any Management Agreement. Any new Manager appointed to the Company must be approved by the Central Bank.
- (2) The Directors, or where the Directors have appointed a Manager pursuant to Article 6(1), the Manager, may in accordance with the requirements of the UCITS Rules, appoint any person, firm or corporation to be the Investment Adviser, Administrator or registrar of the Company or to provide such other services as may be required by the Company, upon such terms and conditions including the right to remuneration payable or to be reimbursed by the Company or the Manager (either out of the assets of the relevant Fund or out of any fee payable by the Company to the Manager) and with such power of delegation and such restrictions as they think fit.

## **DEPOSITARY**

7. Before issuing any Participating Shares the Directors shall appoint a Depositary approved by the Central Bank which shall be responsible for the safe keeping of all the assets of the Company and carry out the functions required of a trustee and depositary by the UCITS Rules, and perform such other duties upon such terms as the Directors may from time to time (with the agreement of the Depositary) determine. The remuneration of the Depositary shall be payable by the Company.
8. (1) The Depositary shall be a company qualified to act as depositary of a UCITS pursuant to the UCITS Rules, and which has the approval of the Central Bank.
- (2) Notwithstanding the provisions of Article 8(1) the Depositary may with the consent of the Directors appoint any other person to hold as nominee for the Depositary any Investments which cannot conveniently be held by or in the name of the Depositary. The Depositary may upon the terms and conditions of the Depositary Agreement procure that Investments may be held by persons other than the Depositary.
9. (1) In the event of the Company wishing to remove the Depositary or of the Depositary desiring to retire the Directors shall use their best endeavours to find a company willing to act as Depositary and having the qualifications referred to in Article 8 to act as Depositary and upon doing so the Directors

shall appoint such company to be Depositary in place of the retiring Depositary.

- (2) If a Depositary shall give notice to the Company of its intention to retire and a replacement Depositary is not found by the Directors within the notice period set out in any agreement between the Company and such Depositary, the Company shall and is hereby authorised to repurchase all of the Participating Shares in issue except such number and value of shares as are required to ensure that any relevant statutory minimum requirement for a public limited company such as the Company is maintained. Thereafter, the Directors shall take steps to procure that Company shall be wound up after the expiry of the relevant notice period.
- (3) In the event of the Depositary desiring to retire the Directors shall use their best endeavours to find a company willing to act as Depositary and having the qualifications referred to in Article 8 to act as Depositary and upon doing so the Directors shall appoint such company to be Depositary (subject to the prior approval of the Central Bank) in place of the retiring Depositary. The Depositary may not retire until a replacement Depositary is appointed or until the authorisation of the Company has been revoked by the Central Bank. If a replacement Depositary is not found by the Directors within the notice period set out in any agreement between the Company and such Depositary, the Company shall repurchase all of the Participating Shares in issue except such number and value of Participating Shares as are required to ensure that any relevant statutory minimum requirement for a public limited company is maintained. Thereafter, the Directors shall take steps to procure that Company shall be wound up after the expiry of the relevant notice period. The appointment of the Depositary will terminate on the revocation of the authorisation of the Fund by the Central Bank.

#### **MANAGEMENT AND DEPOSITARY AGREEMENTS**

10. (1) The terms of any agreement entered into by the Company appointing any person to act as Manager or Depositary of the Company (other than the original agreements appointing the first Manager or first Depositary entered into prior to the first issue of Participating Shares other than to the subscribers of the Memorandum of Association), and any variations made after the first issue of Participating Shares to any such agreement then in force, shall be subject to approval by a resolution passed by the majority of holders for the time being of the Participating Shares (or of any class thereof as the case may require) present or represented by proxy at a meeting of the holders of such Participating Shares.
- (2) Approval of an agreement referred to in paragraph (1) of this Article shall not be required where either:
  - (a) the terms of any new agreement entered into for the appointment of a new Manager or Depositary do not differ materially from those in force with the former Manager or Depositary on termination of its appointment; or

- (b) the agreement relates to a variation to an existing agreement and the Company, the Manager and the Depositary each certify that any such variation:
  - (i) is required only to enable the affairs of the Company to be more conveniently or economically managed or otherwise to benefit the holders of Participating Shares;
  - (ii) will not prejudice the interests of the then existing holders of Participating Shares or any of them;
  - (iii) will not alter the fundamental provisions or objects of the agreement; and
  - (iv) will not operate to release the Manager or the Depositary from any responsibility to the Company.
- (3) Any agreements between the Company and a Manager and Depositary and any amendments or variation thereto shall be in accordance with the requirements of the UCITS Rules.

### **SHARE CAPITAL**

- 11. (1) The share capital of the Company is €40,000, divided into 40,000 Subscriber Shares of one euro (€1.00) each and 500,000,000,000 Participating Shares of no par value, each having the rights provided for and as hereinafter appearing.
- (2) The total amount of the paid up share capital of the Company shall at all times be equal to the Net Asset Value of the Company.
- 12. (1) Subscriber Shares shall only be issued at par value.
- (2) Subscriber Shares shall have no entitlement to:
  - (a) a share of the Investments or relevant profits of the Company.
  - (b) receive a distribution from the Company.
  - (c) vote at general meetings of the Company save as provided for in these Articles.
- (3) Any Subscriber Shares which are not for the time being owned by JOHCM OEIC Managers LLP or its nominees shall be subject to requisition under Article 39 hereof.
- (4) The Subscriber Shares may be redeemed at the option of the Directors at the value of the amount paid up.
- 13. (1) The Directors are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot relevant securities within the meaning of Section 1021 of the Act. The maximum amount of relevant securities which may be allotted under the authority hereby conferred shall be the

number of authorised but unissued relevant securities in the capital of the Company from time to time and for the time being.

- (2) The Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry, and the Directors may allot relevant securities in pursuance of such offer or agreement, notwithstanding that the authority hereby conferred has expired.
  - (3) Subject to the foregoing, the Shares shall be at the disposal of the Directors who may offer, allot or otherwise deal with or dispose of them to such persons at such times and on such terms as they think proper.
  - (4) The Directors may in their absolute discretion refuse to accept any application for Participating Shares in the Company or accept any application in whole or in part. In the case of any such refusal the relevant subscription monies shall be returned to the applicant without interest and at his own risk.
  - (5) The Company may on any issue of Participating Shares pay such brokerage as may be lawful.
  - (6) The Participating Shares of each Fund may be designated by the Directors as different types of Participating Shares within that particular Fund. The Directors have power to issue different types of Participating Shares in each Fund to investors and may create hedged and unhedged share types within a Fund. Details of the different types of Participating Shares to be created in a Fund must be notified in advance to the Central Bank.
  - (7) The Directors may in their absolute discretion differentiate between the different types of Participating Shares including, without limitation, as regards the level of management fees payable in respect of each. In addition, each type of Participating Share within a Fund may incur different preliminary and redemption charges and may have a different distribution policy or currency of designation.
  - (8) Where a Shareholder switches from one Fund to another, Participating Shares will be issued as the relevant type of Participating Shares within that Fund.
14. No person shall be recognised by the Company as holding any Share upon any trust and the Company shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share, or (except only as by these Articles otherwise provided or as by law required) any other right in respect of any Share except an absolute right to the entirety thereof in the registered holder.

#### **ALLOTMENT OF PARTICIPATING SHARES**

15. (1) The Directors are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot relevant securities within the meaning of section 1021 of the Act.
- (2) Subject to Article ~~16(3)~~16(3)(i)(3) and except as otherwise agreed by the Directors and subject as hereinafter provided, the Company on receipt by it (or

its authorised agents) up to the relevant time as may be set out in an applicable Supplement of:

- (i) an application for Participating Shares in such form as the Directors may from time to time determine; and
- (ii) such relevant declarations as to status, residence and otherwise as the Directors may from time to time require;

may allot such Participating Shares on the next following Dealing Day for each such Participating Share at the Subscription Price calculated by reference to that Dealing Day in accordance with Article 16. If the application and/or declarations referred to in paragraph (2)(i) and (ii) of this Article are received after the relevant cut-off time for subscription requests (as set out in the applicable Supplement) the Company may treat such application as having been received on the next Business Day and may (if that Business Day is a Dealing Day) defer the allotment of such Participating Share until the next following Dealing Day after receipt of the application and/or declarations referred to in paragraph (2)(i) and (ii) of this Article and the Subscription Price shall be determined accordingly as herein provided.

- (3) Subject as provided in Article ~~16(a)~~~~16.(a)~~, an application for Participating Shares shall not, without the consent of the Company be capable of being withdrawn once given.

- 16. (1) Without prejudice to the provisions of Article ~~16(3)~~~~16.(b)(i)(3)~~ the allotment of Participating Shares shall (unless the Directors otherwise agree) be made on condition that (unless settlement has already been effected) the applicant shall effect settlement within such period and in such currency or currencies as the Directors may determine to be appropriate to receive subscriptions and in the manner required by the Directors and that in the event of late settlement the applicant may be required to compensate the Company for the amount of any loss arising as a result thereof (as conclusively determined by the Directors) and in the event of the applicant failing to make settlement within three Business Days of the allotment, such (provisional) allotment may be cancelled absolutely and the application refused or alternatively the application may be treated as an application for such number of Participating Shares as may be purchased or subscribed for with such payment as has been made.
- (2) The Company may (at the option of the Directors) satisfy any application for the allotment of Participating Shares by procuring the transfer to the applicant of fully-paid Participating Shares at a price per share equivalent to the relevant Subscription Price per share as determined hereunder. In any such case, references in these Articles to allotting Participating Shares shall where appropriate be taken as references to procuring the transfer of Participating Shares.
- (3) The terms on which and the price per Participating Share at which the first allotment of Participating Shares of any class (other than to the subscribers of the Memorandum of Association) shall be effected and the time of such issue shall be determined by the Directors.



- (4) Any subsequent allotment of Participating Shares of any class shall be made on any Dealing Day at the Subscription Price per Participating Share of the relevant class as adjusted, being a sum not less than the Redemption Price per Participating Share of the relevant class on the same Dealing Day and not more than a sum calculated by:-
- (a) ascertaining the Net Asset Value of the Fund to which the Participating Shares or, if relevant, that portion of the Fund to which Participating Shares of a particular type are attributable in either case, (the **“Appropriate Fund”**);
  - (b) dividing the aggregate of the amount calculated under (a) above by the number of Participating Shares of the relevant class then in issue; and
  - (c) rounding the resulting amount to three decimal places.
  - (d) The amount payable may be increased by:
    - (i) adding thereto a subscription charge of an amount which shall be determined by the Directors but which shall not exceed 5% of the relevant Subscription Price (without taking into account such subscription charge); and
    - (ii) at the discretion of Directors in the case of any one or more subscribing investor, adding thereto such sum as the Directors may consider appropriate to protect the interests of all Shareholders against the dilution in value of the Appropriate Fund on account of the costs associated with the acquisition of assets.
- (5) Any subscription charge made pursuant to paragraph 16(4)(d)(i) of this Article shall be allowable by the Company to or for the benefit of the Manager or such of its agents as the Manager may direct and the Directors may differentiate between any applicants and between classes of Participating Shares (and types of Shares within that class) as to the amount of such subscription charge within the permitted limit.
- (6) A swing-pricing mechanism to counter the dilution of a Fund's assets and protect Shareholders from the impact of transaction costs arising from subscription and redemption activity may also be employed by the Company and/or one or more Funds, the details of which will be set out in the Prospectus or applicable Supplement.
- (7) If the Directors and the Depositary shall be satisfied that the terms of any exchange shall not be such as are likely to result in any material prejudice to existing Shareholders, the Directors may in their absolute discretion allot Participating Shares on terms providing for settlement to be made by the vesting in the Depositary on behalf of the Company of any securities, bonds or other assets of whatsoever nature and wheresoever situate that may be acquired by the Company in conformity with the UCITS Rules and the investment policy of the Company as determined from time to time by the Directors, and in connection therewith the following provisions shall apply:

- (a) for the avoidance of doubt, in determining the number of Participating Shares to be issued in exchange for the vesting in the Depositary on behalf of the Company of securities, bonds or other assets, the Subscription Price for such Participating Shares shall be determined in accordance with paragraph ~~16(4)~~~~16.(b)(i)(4)~~ of this Article;
  - (b) the number of Participating Shares to be allotted shall be not more than that number which would have fallen to be allotted for settlement in cash against the payment of a sum equal to the value at the Valuation Point for the relevant Dealing Day of the securities, bonds or other assets, as the case may be, to be vested in the Depositary on behalf of the Company as determined by the Directors in accordance with paragraph (d) below;
  - (c) the Directors may provide that the whole or any part of the Duties and Charges arising in connection with the vesting of the securities, bonds or other assets in the Depositary on behalf of the Company shall be paid by the Company or by the person to whom the Participating Shares are to be allotted or partly by the Company and partly by such person;
  - (d) the value of the securities, bonds or other assets to be vested in the Depositary on behalf of the Company shall be determined by the Directors on the same basis as that provided for in Article 22 hereof; and
  - (e) the Directors may require that the person to whom the Participating Shares are to be allotted shall warrant to the Company that the securities, bonds or other assets, as the case may be, to be vested in the Depositary on behalf of the Company are the absolute beneficial property of that person and are not the subject of any assignment, charge, lien, encumbrance, equity, licence, user or other agreement, right or claim whatsoever and all of the same are valid, subsisting and not subject to revocation or cancellation. The Directors shall further require that person to deliver to the Depositary or its nominee, bonds or other assets title to which is capable of transfer by delivery and otherwise to execute such documents and take such other steps (or procure the necessary parties to do so) as shall be required by the Directors for vesting the securities, bonds or other assets in the Depositary on behalf of the Company. Such securities, bonds or other assets so accepted must be consistent with the investment objective and policy of the relevant Fund.
- (8) The following provisions shall apply in connection with the issue of Participating Shares pursuant to paragraphs ~~16(4)~~~~16.(b)(i)(4)~~ – 16(7)(e) of this Article;
- (a) no Participating Shares shall be allotted on a Dealing Day (except those for which applications had been previously received and accepted by the Company) during any periods when the issue or the redemption of Participating Shares is suspended pursuant to Article 23

hereof. Unless withdrawn prior to the expiry of the period of suspension referred to in the preceding sentence, applications will be considered on the Dealing Day immediately following the day on which such suspension is lifted. Any such withdrawal shall be made in writing and shall not be effective until it has actually been received by the Company (or its authorised agent).

- (b) the Directors may issue Participating Shares on terms that the person to whom they are issued shall bear any Duties and Charges which may be incurred outside Ireland.
- (c) where any subscription moneys are not an exact multiple of the Subscription Price per Participating Share of the class applied for a fraction of a Participating Share may be issued at the discretion of the Directors up to three decimal places;
- (d) the Directors shall have power to impose such restrictions as they may think necessary for the purpose of ensuring that save as permitted by any relevant foreign law no Participating Shares in the Company are acquired or held by any person in breach of the laws or requirements of any country or governmental authority;
- (e) for the purposes hereof Participating Shares which have been allotted shall be deemed to come into issue at the Close of Business on the relevant Subscription Day in respect of such allotment.

#### **REALISATION OF PARTICIPATING SHARES**

17. (1) Subject to the provisions of the Acts and the UCITS Rules and as otherwise hereinafter provided and except as otherwise agreed by the Directors, the Company, on receipt by it (or one of its authorised agents) up to the relevant time as may be set out in an applicable Prospectus or the applicable Supplement of :
- (i) a request in such form as the Directors may from time to time determine (hereinafter in this Article called a **“Realisation Request”**) for the redemption of all or any portion of the Participating Shares of a class held by a Shareholder (hereinafter in this Article called the **“Applicant”**); and
  - (ii) such evidence as to title to the Participating Shares to be redeemed as the Directors may have made available to the Applicant upon his acquisition of the relevant Participating Shares to be redeemed;

shall redeem such Participating Shares on the next following Dealing Day at the Redemption Price for each such Participating Share calculated on such Dealing Day in accordance with Article 18 hereof or procure the purchase thereof at not less than the Redemption Price for each such Share as aforesaid provided that:-

- (a) Where a Realisation Request is received after the relevant cut-off time for realisation requests (as set out in the Prospectus or the applicable Supplement), the Company may treat such request as having been received in respect of the next following Dealing Day and the Redemption Price shall be determined accordingly as herein provided.
  - (b) At the request of the Applicant the Directors may but shall not be bound to redeem such Participating Shares on the next Dealing Day.
  - (c)
    - (i) Subject as provided in sub-paragraph ~~17(d)~~~~17.(d)~~ hereof, in the event that evidence as to title is not received by the appropriate notice period for such Realisation Request as referred to in Article 17(1) the Directors may proceed to redeem or procure the purchase of the Participating Shares comprised in the Realisation Request on the next following Dealing Day, but settlement of the aggregate of the Redemption Price for all such Participating Shares (hereinafter in this Article called the **“Proceeds”**) shall not be made until such time as the evidence as aforesaid is received by the Company or one of its authorised agents.
    - (ii) If settlement is postponed pursuant to sub-paragraph ~~17(i)~~~~17.(b)(i)~~ above the Proceeds will be deposited by the Company in a bank for payment to the Applicant against surrender of the Contract Note or other evidence as to title representing the Participating Shares previously held by such person or the furnishing of such other evidence as to title as the Directors may require.
    - (iii) Upon the deposit of the Proceeds in a bank, pursuant to sub-paragraph ~~17(c)(ii)~~~~17.(c)(ii)~~ above the Applicant shall have no further interest in any of the Participating Shares comprised in the Realisation Request or any claim against the Company in respect thereof except the right to receive the Proceeds so deposited (without interest) upon surrender of the Contract Note or other evidence as to title.
  - (d) The Directors may at their option dispense with the production of any Contract Note or other evidence as to title which shall have become defaced lost or destroyed upon compliance by the Applicant with the like requirements to those applying in the case of an application by him for replacement of a defaced lost or destroyed Contract Note or other evidence as to title under Article 33.
- (2) Subject as hereinafter provided, the Applicant shall not without the consent of the Company be entitled to withdraw his Realisation Request once given or his Contract Note or other evidence as to title.
  - (3) If on any Dealing Day the issue, conversion and redemption of Participating Shares are suspended pursuant to Article 23 hereof the right of the Applicant to have such Participating Shares redeemed pursuant to paragraph (1) of this

Article 17 on that Dealing Day shall be similarly suspended and on any Dealing Day on which the Applicant's right to have them redeemed is so suspended he may withdraw his Realisation Request and his Contract Note or other evidence as to title. Any such withdrawal under the provisions of this Article shall be made in writing and shall not be effective until it has actually been received by the Company (or its authorised agent). If no such withdrawal is made, the day on which the redemption of such Participating Shares shall be effected shall be the Dealing Day immediately following the day on which such suspension is lifted.

- (4) (a) The redemption of Participating Shares shall be made on terms that (subject to any requisite official consents first having been obtained) the Company or its authorised agent shall effect settlement of the Proceeds:
  - (i) in the currency in which the relevant class of Participating Shares is designated unless the Directors otherwise determine in any particular case or generally in relation to Participating Shares of any class;
  - (ii) within 5 days of the relevant Dealing Day on which the redemption took place; and
  - (iii) in accordance with any payment instructions given by the Applicant to the Company or its authorised agent at the time of submitting the Realisation Request provided that the Directors are satisfied that there is no practical or legal impediment to the implementation of such instructions. If the Directors are not so satisfied or no payment instructions have been given as aforesaid, settlement shall be effected (subject to any requisite official consents first having been obtained) either by cheque or in such other manner as the Directors may deem appropriate.
- (b) The Company shall not be liable for any loss or damage suffered or incurred by any Applicant or any other person as a result of or arising out of late settlement howsoever such loss or damage may arise.
- (5) Unless a lower number of Participating Shares is specified in the Realisation Request, the Realisation Request will be taken to apply to all the Participating Shares held by the Applicant or represented by the appropriate Contract Note.
- (6) On the redemption of part only of the Participating Shares referred to in any Contract Note the Directors shall procure the issue of a further Contract Note in respect of such Participating Shares or such other evidence as to title as the Applicant may agree with the Directors to be sent to the Applicant.
- (7) (a) Subject to the provisions of this paragraph but notwithstanding any provision of these Articles the Company may limit the number of Participating Shares to be redeemed on any one Dealing Day to 10% of the Net Asset Value of the applicable Fund.

- (b) If the Company shall receive requests for redemption on any Dealing Day of Participating Shares in respect of a Fund of a value greater than that provided for in paragraph (7)(a) of this Article, it may scale down the number to be redeemed in response to each request to such extent as may be necessary to ensure that such limit is not exceeded and shall carry forward for redemption or purchase on the next Dealing Day the balance of each request and so on to each succeeding Dealing Day until each request has been complied with in full.
  - (c) Any requests for redemption which have been carried forward from an earlier Dealing Day pursuant to paragraph (7)(b) of this Article shall (subject to the foregoing limits) be complied with on a pro rata basis with later requests on each subsequent Dealing Day until all of the Participating Shares to which the original request related have been redeemed.
- (8) The Redemption Price may be satisfied by the Company paying cash or, provided that the Directors or the Manager are satisfied that the terms of any exchange shall not be such as are likely to result in any material prejudice to any remaining Shareholders and with the agreement of the relevant Shareholder, making an in specie distribution, on such terms and conditions as the Directors and the Manager may specify, to such Shareholder of Investments equalling the aggregate Redemption Price (or together with any such cash payment when aggregated with the value of the Investments being distributed as are equal to such Redemption Price).
  - (9) Where redemption of Participating Shares is to be satisfied by an in specie distribution of Investments held by the Company, the Depositary shall transfer such Investments as the Manager, shall direct to the Shareholder as soon as practicable after the relevant Dealing Day. All costs and risks of such distribution shall be borne by such Shareholders.
  - (10) Shares redeemed shall be deemed to cease to be in issue at the Close of Business on the relevant Dealing Day in respect of the redemption and such redeemed Shares shall be cancelled.

### **REDEMPTION PRICE**

- 18. (1) The redemption of Participating Shares of any class shall be made at the Redemption Price per Participating Share of that class as adjusted, calculated by the Directors and being not more than the Subscription Price for a Participating Share of the same class calculated by reference to the same Dealing Day pursuant to Article 16 hereof and not less than a sum calculated in the following manner:
  - (a) ascertaining the Net Asset Value of the Fund to which the Participating Shares or, if relevant, that portion of the Fund to which Participating Shares of a particular type are attributable in either case, (the **“Appropriate Fund”**);

- (b) dividing the aggregate of the amount calculated under ~~18(a)~~<sup>18.(a)</sup> above by the number of Participating Shares of the relevant class then in issue; and
- (c) rounding the resulting amount to three decimal places.
- (d) The amount payable may be reduced by:
  - (i) deducting therefrom a redemption charge which shall be determined by the Directors but which shall not exceed 2% of the relevant Redemption Price (without taking into account such redemption charge). The Directors shall not increase the maximum charge relating to the redemption or repurchase of Participating Shares 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 herein. In the event of an increase in the redemption or repurchase charge a reasonable notification period shall be provided to enable Shareholders redeem their Participating Shares prior to the implementation of the increase.
  - (ii) at the discretion of Directors in the case of any one or more redeeming Shareholder, deducting therefrom such sum as the Directors may consider appropriate to protect the interests of all Shareholders against dilution in value of the Appropriate Fund on account of the costs associated with the realisation of assets.
- (2) A swing-pricing mechanism to counter the dilution of a Fund's assets and protect Shareholders from the impact of transaction costs arising from subscription and redemption activity may also be employed by the Company and/or one or more Funds, the details of which will be set out in the Prospectus or applicable Supplement.
- (3) Upon the redemption of a Participating Share being effected pursuant to these Articles the Shareholder shall cease to be entitled to any rights in respect thereof and accordingly his name shall be removed from the Register with respect thereto and the Participating Share shall be cancelled and the amount of the Company's issued share capital shall be reduced accordingly. The Participating Share shall be available for re-issue and until re-issue shall form part of the unissued share capital of the Company.
- (4) Any redemption charge made pursuant to paragraph 18(1)(d)(i) of this Article shall be allowable by the Company to or for the benefit of the Manager or such of its agents as the Manager may direct and the Directors may differentiate between any Shareholders and between classes of Participating Shares as to the amount of such redemption charge within the permitted limit.
- (5) If on any Dealing Day falling after the first anniversary of the first issue of Participating Shares in a Fund the Net Asset Value of that Fund is less than €2,000,000 or the equivalent amount in the currency in which the relevant

Fund is designated, the Company may by twenty-eight days notice to holders of Participating Shares of the class attributable to such Fund redeem on the Dealing Day nominated in such notice at the Redemption Price per Participating Share of the class concerned calculated in accordance with 18(1) hereof all (but not some) of the Participating Shares of the class concerned not previously redeemed.

- (6) In the event of any redemption as set out in paragraph (4) of this Article taking place, the provisions of Article ~~17(b)~~<sup>17.(b)</sup> and Article ~~16(4)~~<sup>16.(b)(i)(4)</sup> shall apply as if such redemption had been made at the request of the holders of the Participating Shares in question.
- (7) With the sanction of a special resolution of the Shareholders of any Fund, the Directors may terminate such Fund and shall compulsorily redeem all (but not some) of the Participating Shares of that Fund at the relevant Redemption Price on the Dealing Day next following the passing of such special resolution or on such Dealing Day as the Directors may specify and notify to the Shareholders.
- (8) If all the Participating Shares of any class are to be redeemed or repurchased pursuant to Article 18(6) the Directors may, with the sanction of a special resolution of the holders of Participating Shares of that Fund, divide amongst the said holders in specie all or any part of the Assets of the relevant Fund. For the avoidance of doubt, if the Special Resolution above is passed, each said holder is entitled to elect on winding-up, whether or not he wishes to receive a distribution in specie or a cash distribution. In the absence of a holder of Participating Shares electing to receive a distribution in specie, such holder shall receive a cash distribution payment.
- (9) If any Participating Shares of any Fund are to be redeemed or repurchased as aforesaid and the whole or any part of the business or property of the Company attributable to the relevant Fund or any of the Assets of that Fund are proposed to be transferred or sold to another company or another Fund (hereinafter called "the Transferee") the Directors may, with the sanction of a Special Resolution of the holders of Participating Shares of that Fund conferring either a general authority on the Directors or an authority in respect of any particular arrangement receive in compensation or part compensation for the transfer or sale shares, units, policies or other like interest or property in or of the Transferee for distribution among the said holders, or may enter into any other arrangement whereby the said holders 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. For the purpose of the foregoing "company" shall include a unit trust scheme.

### **QUALIFIED HOLDERS**

19. (1) If it shall come to the notice of the Directors that any Participating Shares are owned directly or beneficially by any person:
  - (a) in breach of any law or requirement of any country or governmental authority;



- (b) who belongs to or is comprised in any class of persons from time to time for the purposes of this Article determined by the Directors and the Depositary; or
- (c) such that the status, standing or tax residence of the Company is or may be prejudiced or the Company may suffer any pecuniary disadvantage which it would not otherwise have suffered,

then the Company may give notice to such person requiring him to transfer such Participating Shares to a person who is qualified or entitled to own the same or give a request in writing for the redemption of such Participating Shares in accordance with Article 17(1). If any person upon whom such a notice is served pursuant to this paragraph does not within thirty days after service of such notice transfer his Participating Shares or give an irrevocable request in writing to redeem his Participating Shares or establish to the satisfaction of the Company (whose judgment shall be final and binding) that he is qualified, entitled and permitted to own the Participating Shares, he shall be deemed upon the expiration of thirty days to have given a request in writing for the redemption of all his Participating Shares pursuant to Article 17(1) whereupon he shall be bound forthwith to deliver to the Company (or its duly authorised agent) the Contract Note in respect of such Participating Shares or such other evidence as to title as the Directors may require.

- (2) A person who becomes aware that he is holding or owning Participating Shares within any of the categories referred to in paragraph (1) above shall forthwith unless he has already received a notice pursuant to paragraph (1) above either transfer all his Participating Shares to a person qualified or permitted to own the same or give a request in writing for the redemption of all his Participating Shares pursuant to Article 17(1).
- (3) The proceeds of any redemption effected pursuant to this Article will be deposited by the Company in a bank for payment to any such person against surrender of the Contract Note representing the Participating Shares previously held by such person or the furnishing of such other evidence as to title as the Directors may require. Upon the deposit of such proceeds of redemption as aforesaid, such person shall have no further interest in such Participating Shares or any claim against the Company in respect thereof except the right to receive the proceeds of redemption so deposited (without interest) upon surrender of the said Contract Note or other evidence as to title.
- (4) The exercise by the Company of the power conferred by this Article shall not be questioned or invalidated in any case on the ground that there was insufficient evidence of ownership of Participating Shares by any person or that the true ownership of any Participating Shares was otherwise than appeared to the Company at the relevant date provided the said powers shall have been exercised in good faith.
- (5) The Directors may at any time and from time to time call upon any holder of Participating Shares by notice in writing to provide the Directors with such information and evidence as they shall require upon any matter connected with or in relation to such holder of Participating Shares in order to satisfy

themselves that Participating Shares are not owned directly or beneficially by any person:

- (a) in breach of any law or requirement of any country or governmental authority;
  - (b) who belongs to or is comprised in any class of persons from time to time for the purposes of this Article determined by the Directors; or
  - (c) such that the status, standing or tax residence of the Company is or may be prejudiced or the Company may suffer any pecuniary disadvantage which it would not otherwise have suffered as a result of that person continuing to own Participating Shares.
- (6) If such information and evidence is not so provided within a reasonable time (not being more than five days after service of the notice requiring the same) the Directors shall forthwith serve such holder of Participating Shares with a further notice calling upon him, within seven days after service of such further notice, to transfer his Participating Shares or to request the redemption of such Participating Shares in accordance with Article 17(1) and, failing action by him within such seven days to implement that notice, he shall be deemed to have given a request in writing for the redemption of all his Participating Shares in accordance with Article 17(1), whereupon he shall be bound forthwith to deliver to the Company or one of its duly authorised agents the Contract Note for his Participating Shares or such other evidence as to title as the Directors may require and until such time as the Contract Note or such other evidence as to title as the Directors may require as aforesaid is received by the Company or one of its duly authorised agents the proceeds of any such redemption shall be deposited by the Company in a bank in accordance with Article ~~19(c)(3)~~~~19.(e)(i)(3)~~ hereof.
- (7) If the Company becomes liable to account for tax in any jurisdiction in the event that a holder or beneficial owner of a Participating Share were to receive a distribution in respect of his/her Participating Shares or to dispose (or be deemed to have disposed) of his/her Participating Shares in any way (a “**Chargeable Event**”), the Directors or their agent shall be entitled to deduct from the payment arising on a Chargeable Event an amount equal to the appropriate tax and/or where applicable, to appropriate, cancel or compulsorily repurchase such number of Participating Shares held by the holder or such beneficial owner of the Participating Shares as are required to meet the amount of tax. The relevant holder of Participating Shares shall indemnify and keep the Company indemnified against loss arising to the Company by reason of the Company becoming liable to account for tax in any jurisdiction on the happening of a Chargeable Event if no such deduction, appropriation, cancellation or compulsory repurchase has been made.

## CONVERSIONS

20. Subject as herein provided a holder of Participating Shares of any Fund (hereinafter in this Article called the “**Original Fund**”) shall have the right to convert all or any portion of such Participating Shares comprised in one or more Written Confirmations

of Entry into Participating Shares of another Fund (hereinafter in this Article called the “**New Fund**”) either existing or agreed by the Directors to be brought into existence on terms hereinafter appearing:-

- (1) The right of conversion is exercisable by the said holder (hereinafter in this Article called the “**Applicant**”) giving to the Company (or one of its authorised agents) a notice (hereinafter in this Article called a “**Conversion Notice**”) in such form as the Directors may from time to time determine.
- (2) Subject to the receipt by the Company (or one of its authorised agents) of a Conversion Notice 10 Business Days before Dealing Day on which the conversion is to be effected (or such other time as the Directors may determine either generally or in relation to a particular Fund or in any specific case) the conversion of the Participating Shares comprised in the Conversion Notice shall be effected on the next following Dealing Day.
- (3) The Applicant shall not without the consent of the Company be entitled to withdraw a Conversion Notice given in accordance with this Article except in any circumstances in which if it were a Realisation Request he would be entitled to withdraw it in accordance with Article ~~17(d)(3)~~~~17.(d)(i)(3)~~ hereof and any such withdrawal shall only be effective if made in compliance with the same requirements as to writing and actual receipt as are imposed by the said Article ~~17(d)(3)~~~~17.(d)(i)(3)~~.
- (4) Conversion of the Participating Shares comprised in the Conversion Notice shall be effected on the relevant Dealing Day by the redemption of the Participating Shares of the Original Fund and the allotment and issue of Participating Shares of the New Fund in proportion to (or as nearly as possible in proportion to) the holding of the Participating Shares of the Original Fund and where conversion is effected in accordance with this Article the number of Participating Shares of the New Fund to be allotted and issued shall be determined in accordance with the following provisions of this Article provided that the right of conversion shall be conditional upon the Company having sufficient available unissued share capital to enable the conversion to be implemented in the manner determined by the Directors as aforesaid.
- (5) The number of Participating Shares of the New Fund to be allotted and issued on conversion shall be determined by the Directors as nearly as possible in accordance with the following formula:

$$NSH = \frac{OSH \times RP}{SP}$$

where

NSH is the number of Participating Shares of the New Fund;

OSH is the number of Participating Shares of the Original Fund specified in the Conversion Notice;

RP is the Redemption Price of a Participating Share of the Original Fund calculated in accordance with Article 18(1) hereof by reference to the relevant Dealing Day;

SP is the Subscription Price of a Participating Share of the New Fund calculated in accordance with Article 16 hereof by reference to the relevant Dealing Day.

- (6) Fractions of Participating Shares of the New Fund may not be allotted on conversion and any monies which would provide an entitlement to only a fraction of a Participating Share of the New Fund shall be returned to the Applicant.
- (7) On the relevant Business Day the Manager, shall debit the Fund attributable to Participating Shares of the Original Fund with an amount equal to  $OSH \times RP$  and shall credit the Fund attributable to Participating Shares of the New Fund with the appropriate amount in the currency in which the New Fund is designated.
- (8) No Contract Note in respect of Participating Shares of the New Fund allotted on conversion shall be issued until the Company (or its authorised agent) has received the Contract Note representing the relevant number of Participating Shares of the Original Fund so converted with the Conversion Notice on the reverse thereof duly completed and signed or shall have received such other evidence as to title as the Directors may require together with a Conversion Notice in a form acceptable to the Directors.
- (9) Where a Shareholder converts from the Original Fund to the New Fund and the Participating Shares in the New Fund are designated as Shares of different types in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~, Participating Shares in the New Fund will be issued as Shares of the relevant type, as applicable (whether or not the Participating Shares in the Original Fund were designated as Shares of different types in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~). Where the Participating Shares of the Original Fund are designated as Shares of different types in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~, and the Shareholder converts to a New Fund (the Participating Shares of which are not designated as Shares of different types in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~) the Participating Shares will be issued of the single type in the New Fund. Shareholders may not convert from one type to another within the same Fund.

## **CLASSES OF PARTICIPATING SHARES**

21. (1) Each Participating Share shall be issued as a member of a particular Fund. The initial Funds shall be designated as J O Hambro Capital Management UK Growth Fund, J O Hambro Capital Management Japan Fund, J O Hambro Capital Management European Fund, J O Hambro Capital Management European Select Values Fund and J O Hambro Capital Management Continental European Fund. Each Fund shall be designated in such currency as the Directors may determine.

Provided that the directors of the Company shall have discretion, subject to the approval of the Central Bank, to change the name of any Fund which has not yet been activated without the requirement of Shareholder approval.

- (2) The Directors shall obtain the prior approval of the Central Bank before establishing any Fund in addition to those specified in Article 21(1).
- (3) The Directors shall establish and maintain separate Funds for each class of Participating Shares and shall have power by resolution of the Board of Directors to adopt for any Fund such investment restrictions as they shall in their discretion deem necessary or appropriate.
- (4) The Directors shall establish and maintain separate records and accounts in respect of each Fund.
- (5) The following provisions shall apply to each Fund:
- (a) the proceeds from the allotment and issue of each Fund shall be applied in the books and records of the Company to the Fund established for Participating Shares of that Fund and the assets less the liabilities plus any income less expenditure attributable thereto shall be applied to such Fund;
  - (b) where any asset is derived from another asset (whether cash or otherwise) such derivative asset shall be applied in the books of the Company to the same Fund as the asset from which it was derived and on each revaluation of an asset the increase or decrease in value shall be applied to or deducted from the relevant Fund;
  - (c) the Directors shall have discretion subject to the approval of the Depositary, to determine the bases upon which any asset or liability which they do not consider attributable to a particular Fund (which in the case of a liability, without limitation, may include all operating expenses of the Company such as audit fees, legal fees, registration fees, the costs of publication and distribution of prospectuses and the costs of calculation and publication of share prices) shall be allocated between Funds (including conditions as to subsequent re-allocations if circumstances so require) and shall have power at any time and from time to time to vary such bases provided that the approval of the Depositary shall not be required in any case where such an asset or

liability is allocated between all Funds pro rata according to the Net Asset Value of each at the time when such allocation was made; and

- (d) save as otherwise provided herein the assets, liabilities and income of each Fund shall be applied solely in the currency or currencies or to the type or class of investments specified by the Directors for each particular Fund and the assets so held in or for each Fund shall be applied solely in respect of Participating Shares of the class to which such Fund relates.
  - (e) Subject to the approval of the Depositary, the Directors may transfer any assets to and from Funds if, as a result of a creditor proceeding against certain of the assets of the Company or otherwise a liability would be borne in a different manner from that in which it would have been borne under paragraph ~~21(c)~~~~21(e)~~ above or in any similar circumstances.
- (6) The assets of each Fund shall belong exclusively to such Fund to which they are attributable. Such assets shall be segregated in the books and records of the Company from the assets of all other Funds and shall not be allocated, nor shall they be pooled with the assets of any other Fund, to discharge directly or indirectly the liabilities of or any claims against any other such Fund and shall not be available for any such purpose.

#### **VALUATIONS OF FUNDS**

22. (1) The Net Asset Value for each Fund (or attributable to each type of Share within that Fund) shall be determined separately by reference to the Fund (or type of Share within such Fund) and to each such determination the following provisions shall apply. The Net Asset Value of the relevant Fund shall be expressed in the currency of designation of that Fund.
- (2) The Net Asset Value of each Fund shall be determined and shall be equal to the value as at the relevant Valuation Point of all the assets, less all the liabilities, of that Fund.
- (3) The assets of a Fund shall be deemed to include:
- (a) all cash in hand, on loan or on deposit, or on call including any interest accrued thereon,
  - (b) all bills, demand notes, promissory notes and accounts receivables,
  - (c) all bonds, certificates of deposit, shares, stock, units in Collective Investment Schemes, debentures, debentures stock, subscription rights, warrants, options and other investments and securities owned and contracted for, (other than rights and securities issued by it),
  - (d) all stock and cash dividends and cash distributions which the Directors consider will be received by the Company in respect of the Fund but which have not yet been received by it but have been declared payable

to stockholders of record on a date before the day as of which the assets are being valued,

- (e) all interest accrued on any interest-bearing securities forming part of the Fund,
  - (f) all prepaid expenses relating to that Fund and a proportion of any prepaid expenses relating to the Company generally, such prepaid expenses to be valued and defined from time to time by the Directors.
- (4) Subject to the Acts any expense or liability of the Company may be amortised over such period as the Directors (with the approval of the Auditors) may determine (and the Directors may at any time and from time to time determine with the approval of the Auditors to lengthen or shorten any such period), and the unamortised amount thereof at any time shall also be deemed to be an asset of the Company.
- (5) Assets shall be valued as follows:
- (a) Deposits shall be valued at their principal amount plus accrued interest from the date on which the same was acquired or made;
  - (b) Bonds, notes, treasury bills, debenture stocks, certificates of deposit, bank acceptances, trade bills and similar assets shall be valued at the close of business price of the preceding Business Day in each case on the market on which these assets are traded or admitted for trading (being the market which is the sole or in the opinion of the Directors the principal market on which the assets in question are quoted or dealt in) as certified to the Directors by a competent person accustomed to deal on such market approved for the purpose by the Depositary;
  - (c) Exchange traded futures and options contracts (including index futures) shall be valued at the settlement price as determined by the market in question. If such market price is not available, the value shall be the probable realisation value estimated with care and in good faith by the Directors or such other competent person approved for the purpose by the Depositary. Off-exchange derivative contracts shall be valued by the counterparty at least daily. The valuation must be approved or verified weekly by a third party who is independent of the counterparty and who is approved for the purpose by the Depositary. Forward exchange contracts shall be valued by reference to the price at which a new forward contract of the same size and maturity could be undertaken;
  - (d) Save as otherwise herein provided investments or assets listed, quoted or dealt in on a Recognised Market shall be valued at the Valuation Point or, if the Recognised Market on which such investment or asset is traded or admitted for trading (being the Recognised Market which is the sole, or in the opinion of the Directors, the principal, Recognised Market on which the investment in question is listed, quoted or dealt in) is closed at the Valuation Point, then such investments or assets will

be valued at the last traded price at the close of the last regular trading session of that Recognised Market. If such dealing price for the assets is not representative in the sole opinion of the Directors of the value of the assets, the value will be the probable realisation value, estimated with care and in good faith by such competent person as may be appointed by the Directors and approved for the purpose by the Depositary;

- (e) At any time when the dealing prices are not available in respect of assets listed, quoted or dealt in on a Recognised Market in each case on the Recognised Market on which these assets are traded or admitted for trading (being the Recognised Market which is the sole or in the opinion of the Directors the principal Recognised Market on which the investment in question is listed, quoted or dealt in), the value of the assets will be the probable realisation value estimated with care and in good faith by such competent person as may be appointed by the Directors and approved for the purpose by the Depositary;
  - (f) Any investments or assets not listed, quoted or dealt in on a Recognised Market shall, be valued at the probable realisation value as determined with care and in good faith by such competent persons as may be appointed by the Directors and approved for the purpose by the Depositary;
  - (g) Securities listed or traded on a Recognised Market but acquired or traded at a premium or at a discount outside or off the relevant market may be valued, taking into account the level of premium or discount at the date of the valuation. The Depositary must ensure that the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security;
  - (h) Cash shall be valued at face value (together with accrued interest to the relevant Valuation Date) unless, in the opinion of the Directors, any adjustment should be made to reflect the value thereof in the context of currency, marketability, dealing costs and/or such other considerations as are deemed relevant;
  - (i) The value of units or shares or other similar participation in any Collective Investment Scheme shall be valued at the latest bid price or the last available net asset value as published by the Collective Investment Scheme; and
  - (j) Notwithstanding the foregoing the Directors may permit some other method of valuation to be used for any particular asset if they consider that such valuation better reflects the fair value of that asset, such other method to be approved by the Depositary and the rationale/methodologies used are clearly documented.
- (6) Currencies or values in currencies other than in the currency of designation of a particular Fund shall unless the Directors determine otherwise be converted or translated at the rate which the Manager after consulting with or in



accordance with, the method approved by the Depositary may consider appropriate having regard (inter alia) to any premium or discount which may be relevant and to costs of exchange into the currency of designation of that Fund.

- (7) For the purpose of valuing the Company's assets as aforesaid the Directors may rely upon the opinions of any person(s) who appear to them to be competent to value assets by reason of any appropriate professional qualification or of experience of any relevant market.
- (8) The liabilities of a Fund shall be deemed to include all liabilities (including charges incurred on the acquisition and realisation of investments and such operating expenses (referred to in ~~21(c)~~~~21.(e)~~ that the Directors consider to be attributable to a particular Fund, and such amount as the Directors determine to provide in respect of contingent liabilities) of whatsoever kind and nature except liabilities represented by Participating Shares in the Company. In determining the amount of such liabilities the Directors may calculate any liabilities on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period. Where the Directors have created different types of Participating Shares within a Fund in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~ and have determined that each type will incur different levels of fees (the details of which shall be set out in the applicable Supplement for that Fund), the Administrator shall adjust the Net Asset Value per type in order to reflect such different levels of fees payable in respect of each type.
- (9) The Net Asset Value of each Fund calculated pursuant the Articles of Association, may be certified by a Director of the Company or by any other person authorised to give such certificate by the Directors and any such certificate shall be binding and conclusive as to the Net Asset Value of such Fund in the absence of manifest error.
- (10) Any increase or decrease in the Net Asset Value of each Fund is attributed to the different types of Participating Shares within each Fund based on their respective pro-rata closing Net Asset Values. The Net Asset Value attributed to each type is then divided by the number of Shares of the relevant type in issue to give the Net Asset Value per Share of each type of Share of that Fund.
- (11) Where different types of Participating Shares are created within a Fund and the Company wishes to employ financial derivative instruments at the level of each type of Share within a Fund, including, without limitation, for hedging purposes or to generate different participations, returns or capital protection in respect of each type, such transactions will be clearly attributable to a specific Share type and any costs and gains/losses of the transactions will accrue solely to the relevant type of Shares.

#### **SUSPENSION OF ISSUES AND REALISATIONS**

23. (1) The Directors may at any time declare a temporary suspension of issues, redemptions and conversions of Participating Shares or of any one or more classes of Participating Shares during:

- (a) any period when any of the principal markets or stock exchanges on which a substantial part of the investments of the relevant Fund are quoted is closed, otherwise than for ordinary holidays, or during which dealings thereon are restricted or suspended;
  - (b) any period when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Directors, disposal or valuation of a substantial part of the investments of the relevant Fund is not reasonably practicable without this being seriously detrimental to the interests of the Shareholders in the relevant Fund or if in the opinion of the Directors the Net Asset Value of the relevant Fund cannot be fairly calculated;
  - (c) any breakdown in the means of communication normally employed in determining the value of the investments of the relevant Fund or when for any reason the current prices on any market of a substantial part of the investments of the relevant Fund cannot be promptly and accurately ascertained;
- (2) Any suspension shall take effect on the day on which the declaration is made and thereafter there shall be no issues, redemptions or conversions of Participating Shares of the class or classes concerned until the Directors shall declare the suspension to be at an end. The Directors shall during the period of any suspension review the reasons for the suspension and declare the suspension at an end as soon as they and the Depositary consider that the reasons or conditions giving rise to the suspension have ceased to exist and no other reasons or conditions on foot of which a suspension might be declared shall exist. Where possible, the Directors shall take all reasonable steps to bring any period of suspension to an end as soon as possible.
  - (3) Any suspension shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the Company and as shall be in effect at the time.
  - (4) To the extent not inconsistent with such official rules and regulations, the determination of the Directors pursuant to Article ~~23(c)(2)~~~~23.(c)(i)(2)~~ shall be conclusive.
  - (5) Forthwith after the commencement of any suspension the Directors shall immediately and in any event within the same Business Day notify in writing the Central Bank, the Irish Stock Exchange (for each class of Shares admitted to the Official List of the Irish Stock Exchange) and the competent authorities in the Member States in which the Company markets its Participating Shares that such a suspension has been made. As soon as may be practicable after the commencement of any suspension, the Directors shall if possible cause a notice to be placed in such publication(s) as the Company has caused Subscription Prices and Redemption Prices to be published in during the preceding six months stating that such suspension has been made, and at the

end of any period of suspension the Directors shall cause another notice to be placed in such publication(s) stating that the period of suspension has ended.

- (6) Nothing herein shall prevent the Company, if the Directors (acting on the advice of the Manager) think fit, from agreeing, during the period of suspension, to issue or redeem or convert Participating Shares at a price to be calculated by reference to the first Dealing Day after the suspension has been declared to be at an end.
- (7) Issues, redemptions and conversions of Participating Shares which have been subject to a suspension shall take place after such suspension has been declared to be at an end at a price to be calculated by reference to the first Dealing Day after the suspension has been declared to be at an end.

### **CALLS ON SUBSCRIBER SHARES**

- 24. The Directors may from time to time make calls upon any registered holder of Subscriber Shares in respect of any moneys unpaid on his Subscriber Shares provided that (except as otherwise fixed by the conditions of application or allotment) no call on any Share shall be payable at less than fourteen days from the date fixed for the payment of the last preceding call, and each such registered holder shall (subject to being given at least fourteen days notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his Subscriber Shares. A call may be payable by instalments. A call may be revoked or postponed as the Directors may determine. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
- 25. The Directors may, if they think fit, receive from any registered holder of Subscriber Shares willing to advance the same all or any part of the money uncalled and unpaid upon the Subscriber Shares held by him beyond the sums actually called up thereon as a payment in advance of calls, and such payment in advance of calls shall extinguish, so far as the same shall extend, the liability upon the Subscriber Shares in respect of which it is advanced, and upon the money so received, or so much thereof as from time to time exceeds the amount of the calls then made upon the Shares in respect of which it has been received.

### **MODIFICATION OF RIGHTS**

- 26. Whenever the capital of the Company is divided into different classes of Participating Shares the special rights attached to any class may (unless otherwise provided by the terms of issue of the Participating Shares of that class) be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three-fourths of the issued Participating Shares of the class, or with the sanction of a resolution passed at a separate meeting of the holders of the Participating Shares of the class by a majority of three-fourths of the votes cast at such a meeting, but not otherwise. To every such separate meeting all the provisions of the Acts and these Articles relating to the general meetings of the Company or to the proceedings thereat shall, mutatis mutandis, apply except that:

- (a) the necessary quorum shall be two persons (except where there are less than two Participating Shareholders in any class, when the quorum shall be one person) at least holding or representing by proxy one-third in nominal amount of the issued Participating Shares of the class (but so that if at any adjourned meeting of such Shareholders a quorum as above defined is not present, those Shareholders who are present shall be a quorum);
  - (b) every Shareholder of the class shall on a poll have one vote for each Participating Share of the class held by him; and
  - (c) any Member of the class present in person or by proxy may demand a poll.
27. The rights conferred upon the holders of any Participating Shares or class of Participating Shares issued with preferred, deferred or other special rights shall (unless otherwise expressly provided by the conditions of issue of such Participating Shares) not be deemed to be varied by the creation or issue of further Participating Shares ranking in any respect *pari passu* therewith.

#### **CONFIRMATION OF ENTRY IN THE REGISTER**

28. Every person whose name is entered as a Member in the Register shall be entitled without payment to a Contract Note which will constitute written confirmation from the Company as to his entry in the Register in respect of all his Participating Shares of each class. It is not the intention of the Directors to issue share certificates.
29. Where a Member has transferred or redeemed part of the Participating Shares comprised in his holding he shall be entitled to a further Contract Note for the balance without charge.
30. Every Contract Note shall be issued within two Business Days after allotment or the lodgement with the Company of the transfer of the Participating Shares, unless the conditions of issue of such Participating Shares otherwise provide, and shall specify the number and class and distinguishing number (if any) of the Participating Shares to which it relates.
31. If at any time all the issued Participating Shares in the Company (or all the issued Participating Shares therein of a particular class) rank *pari passu* for all purposes none of these Participating Shares need thereafter have a distinguishing number so long as they rank *pari passu* for all purposes with all Participating Shares of the same class for the time being issued.
32. The Company shall not be bound to register more than four persons as the joint holders of any Participating Share or Participating Shares and in the case of a Participating Share held jointly by several persons, the Company shall not be bound to issue more than one Contract Note therefor, and delivery of a Contract Note for a Participating Share to one of several joint holders shall be sufficient delivery to all.
33. If a Contract Note be defaced, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity as the Directors think fit. In case of loss or destruction, the Member to whom such renewed Contract Note is given shall also bear

and pay to the Company all expenses incidental to the investigation by the Company of the evidence of such loss or destruction.

### TRANSFER OF SHARES

34. All transfers of Shares shall be effected by transfer in writing in any usual or common form or in any other form approved by the Directors but need not be under seal. The transferring Member remains liable to the Company for all related fees or costs arising from the transfer.
35. The instrument of transfer of a Share shall be signed by or on behalf of the transferor. 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.
36. The Directors may decline to register any transfer of Participating Shares in respect of which the Company has a lien or where the transfer would be in breach of the law or requirements mentioned in Article ~~16(d)~~~~16.(d)~~ hereof.
37. The Directors may also decline to recognise any transfer of Participating Shares unless the instrument of transfer is deposited at the Company's registered office or such other place as the Directors may reasonably require, accompanied by the Contract Note in respect of the Shares to which the transfer relates or such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer, and the instrument of transfer relates to Shares of one class only. Furthermore, the transferee must provide such information, representations and warranties to the Company as are required for an application for Participating Shares under Articles 15 and 16.
38. If the Directors decline to register a transfer of any Participating Share they shall, within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of the refusal.
39. The Directors may at any time direct that any Subscriber Shares not held by JOHCM OEIC Managers LLP for the time being or its nominees shall be compulsorily purchased from the holder thereof at the price stated in paragraph ~~39(b)~~~~39.(b)~~ hereof in the following manner:
  - (a) The Directors shall serve a notice (hereinafter called a **"Purchase Notice"**) upon the person appearing in the Register as the holder of the Subscriber Shares to be purchased (the **"Vendor"**) specifying the Subscriber Shares to be purchased as aforesaid, the price to be paid for such Shares, the person in whose favour such holder must execute a transfer of such Shares and the place at which the purchase price in respect of such Shares is payable. Any Purchase Notice may be served upon the Vendor by mailing the same in a pre-paid registered envelope addressed to the Vendor at his address shown in the Register. The Vendor shall thereupon forthwith be obliged to deliver to the Company within 10 days from the date of the Purchase Notice a duly executed transfer of the shares specified in the Purchase Notice in favour of the person specified in the Purchase Notice.

- (b) The price payable for each Subscriber Share transferred pursuant to this Article shall be €1 less the amount remaining to be paid up thereon.
  - (c) In the event of the Vendor failing to carry out the sale of any Subscriber Shares which he shall have become bound to transfer as aforesaid, the Directors may authorise some person to execute a transfer of such Share(s) in accordance with the direction of the Directors and may give good receipt for the purchase price of such Share, and may register the transferee or transferees as holder or holders thereof and thereupon the transferee or transferees shall become indefeasibly entitled thereto.
40. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine PROVIDED ALWAYS that such registration shall not be suspended for more than 30 days in any year.
41. (a) All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may decline to register shall (except in any case of suspected fraud) be returned to the person depositing the same.
- (b) No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share and the Directors shall exercise their discretion under section 95(2)(1) of the Act to this effect.

#### **TRANSMISSION OF SHARES**

42. In case of the death of a Shareholder, the survivors or survivor where the deceased was a joint holder, and the executors or administrators of the deceased where he was a sole or only surviving holder, shall be the only persons recognised by the Company as having title to his interest in the Share, but nothing in this Article shall release the estate of the deceased holder whether sole or joint from any liability in respect of any Share solely or jointly held by him.
43. Any guardian of an infant Shareholder and any curator or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death or bankruptcy of a Shareholder 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 Participating Share or to make such transfer thereof as the deceased or bankrupt Shareholder could have made, but the Directors shall in either case have the same right to refuse or suspend registration as they would have had in the case of a transfer of the Share by the infant Shareholder or by the deceased or bankrupt Shareholder before the death or bankruptcy or by the Shareholder under legal disability before such disability.
44. A person becoming entitled to a Share in consequence of the death or bankruptcy of a Member shall have the right to receive and may give a discharge for all dividends and other moneys payable or other advantages due on or in respect of the Share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the Company, nor save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the Shares 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 dividends or other moneys payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.

#### **VARIATION OF SHARE CAPITAL**

45. The Company may from time to time by Ordinary Resolution increase its capital by such number of Shares as the resolution shall prescribe.
46. In addition to any rights of the Company specifically conferred by these Articles to reduce its share capital the Company may by Special Resolution from time to time reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power may with or without extinguishing or reducing liability on any of its Shares:-
- (b) cancel any paid-up share capital which is lost or which is not represented by available assets; or
  - (c) pay off any paid-up share capital which is in excess of the requirements of the Company.
47. The Company may by Ordinary Resolution from time to time alter (without reducing it) its share capital by:
- (b) consolidating and dividing all or any of its share capital into a smaller number of Shares than its existing Shares;
  - (c) sub-dividing its Shares, or any of them, into a larger number of Shares than that fixed by its Constitution; or
  - (d) cancelling any Shares which, at the date of the passing of the Ordinary Resolution in that behalf have not been taken, or agreed to be taken, by any person, and diminish the amount of its share capital by the amount of the Shares so cancelled.
48. All new Shares shall be subject to the provisions of these Articles with reference to transfer, transmission and otherwise.

#### **GENERAL MEETINGS**

49. The Company 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 Company and that of the next PROVIDED THAT so long as the Company 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. Subsequent annual general meetings shall be held once in each year.
50. All general meetings (other than annual general meetings) shall be called Extraordinary general meetings.

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

### **NOTICES OF GENERAL MEETINGS**

52. Subject to the provisions of the Acts allowing a general meeting to be called at short 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 days' notice in writing, and all other extraordinary general meetings of the Company shall be called by not less than fourteen days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and hour of meeting, and in case of special business the general nature of such business. The notice shall be given in the manner authorised by these Articles to such persons as are under these Articles entitled to receive such notices from the Company. A notice calling an annual general meeting shall specify the meeting as such and the notice convening a meeting to pass a special resolution shall specify the intention to propose the resolution as such.
53. A general meeting shall, notwithstanding that it is called by shorter notice than that specified in Article 52, be deemed to have been duly called if it is so agreed by the auditors and all the Members entitled to attend and vote thereat.
54. In every notice calling a meeting of the Company, or of any class of Members of the Company, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote instead of him and that a proxy need not also be a Member.
55. 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

### **PROCEEDINGS AT GENERAL MEETINGS**

56. 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 Company's statutory financial statements and other documents required by law to be annexed to the statutory financial statements and the reports of the Directors and the report of the Auditors on these statements and the review of the Members of the Company's affairs, to declare dividends, the election of Directors and Auditors in the place of those retiring, and subject to section 380 and 382 to 385 of the Act, the appointment or re-appointment of the Auditors and the fixing of the remuneration of the Auditors.
57. No resolution shall be passed at any general meeting as a special resolution of the Company to alter the provisions contained in the Constitution of the Company or to alter or add to these Articles except with the prior written approval of the Central Bank.



58. Subject to the provisions of Article 59 in respect of adjourned meetings, for all purposes the quorum for a general meeting shall be not less than two Members present in person or by proxy and entitled to vote.
59. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine and if at such adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Members present shall be a quorum.
60. The Chairman (if any) or, if absent, the Deputy Chairman (if any) of the Board of Directors, or, failing him, some other Director nominated by the Directors shall preside as Chairman at every general meeting of the Company, but if at any meeting neither the Chairman nor the Deputy Chairman nor such other Director be present within five minutes after the time appointed for holding the meeting, or if neither of them be willing to act as Chairman, the Directors present shall choose some Director present to be Chairman or if no Directors be present, or if all the Directors present decline to take the chair, the Members present (in person or by proxy) shall choose some Member present to be Chairman.
61. The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more seven clear days' notice at the least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
62. 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 having the right to vote at the meeting or by a Member or Members representing not less than one tenth of the total voting rights of all the Members having the right to vote at the meeting.
63. 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 Company 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.
64. If a poll is duly demanded, it shall be taken in such manner and at such place as the Chairman may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The Chairman may, in the event of a

poll, appoint a scrutineer and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.

65. 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.
66. A poll demanded on the election of a Chairman and a poll demanded on a question of adjournment shall be taken forthwith.
67. 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.
68. 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. A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.

#### **VOTES OF MEMBERS**

69. No Member shall, unless the Directors otherwise determine, be entitled to vote at any general meeting, either personally or by proxy, or to exercise any privileges as a Member unless all calls or other sums presently payable by him in respect of Shares in the Company of which he is the holder or one of the joint holders have been paid.
70. Each of the Subscriber and Participating Shares entitles the holder to attend and vote at any general meeting **PROVIDED THAT** the holder of a Subscriber Share shall not be entitled to exercise any voting rights in respect of any Subscriber Share at any time that Participating Shares are held by more than one Member.
  - (1) On a show of hands, every Member entitled to vote shall have one vote in respect of all the Shares held by that Member. On a poll, every Member entitled to vote shall have one vote in respect of each Participating and Subscriber Share held by him.
  - (2) Notwithstanding any other provision in these Articles if the Directors so determine, no Member holding Participating Shares may exercise any votes attaching to those Participating Shares if the exercise of such votes would result in the total aggregate number of votes exercised by such Member exceeding twenty per cent of the total number of votes attaching to Participating Shares, which are in issue at the time of exercise of those votes, in the Company or in any Fund. Any resolution passed by the Members, which but for any breach by a Member of this Article would not have been passed, shall be deemed never to have been passed and to be null and void.
71. 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.

72. 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 said 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.
73. 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.
74. On a poll votes may be given either personally or by proxy.
75. On a poll, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
76. The instrument appointing a proxy shall be in writing (in electronic form of 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.
77. Any person (whether a Member of the Company or not) may be appointed to act as proxy. A Member may appoint more than one proxy to attend on the same occasion.
78. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the 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 Company 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. 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.
79. An instrument of proxy shall be in the following form or such other form as the Directors may approve, provided always that the instrument appointing a proxy shall comply with the provisions of the Acts:

***J O Hambro Capital Management Umbrella Fund plc***

*I/We*

*of*

being a Member/Members of the above named Company hereby appoint  
of

*or failing him*

*of*

*as my/our proxy to vote for me/us on my/our behalf at the (Annual or Extraordinary as the case may be) general meeting of the Company to be held on the      day of 20    , and at any adjournment thereof.*

*Signed this      day of      20*

*This form is to be used in favour of the Resolution*

*against*

*Unless otherwise instructed, the proxy will vote or abstain from voting as he thinks fit.*

*\*      Strike out whichever is not desired.*

80. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the Share in respect of which the instrument of proxy is given, provided that no intimation in writing of such death insanity, revocation or transfer shall have been received by the Company at the Office, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
81. Any corporation which is a Member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of Members of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member of the Company and such corporation shall for the purposes of these Articles be deemed to be present in person at any such meeting if the person so authorised is present thereat.
82. A resolution in writing executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members. 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.

## **DIRECTORS**

83. (1) Subject to the provisions of the Acts and unless otherwise determined by the Company by Ordinary Resolution in general meeting, the number of the Directors shall not be less than two. The first Directors shall be the persons named as first Directors in the papers delivered to the Companies Registration Office. A Director (including any alternate Director appointed under Article ~~88(b)~~ 88(b) who is not himself a Director) may only be appointed thereafter if the approval of the Central Bank to such appointment has been obtained

provided that such approval is not required for the appointment of an alternate Director for any first Director.

- (2) The Directors shall not be required to retire by rotation.
84. The Directors shall be entitled to such remuneration in relation to the performance of their duties as the Directors may from time to time determine, which may be subject to adjustment from time to time at the annual general meeting. Such remuneration shall accrue from day to day. The Directors may grant extra remuneration to any Director who is called upon to perform any special or extra services for or at the request of the Company. The Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.
85. (a) A Director is expressly permitted (for the purposes of section 228(1)(d) of the Act) to use the Company's property. Subject to such conditions as may be approved by the board or such conditions as may have been approved pursuant to such authority as may be delegated by the Board in accordance with these Articles.
- (b) Nothing in section 228(1)(e) of the Act shall restrict a Director from entering into any commitment which has been approved by the board or has been approved pursuant to such authority as may be delegated by the board in accordance with these Articles. It shall be the duty of each Director to obtain the prior approval of the board before entering into any commitment permitted by sections 228(1)(e)(ii) and 228(2) of the Act.
86. A Director need not be a Member of the Company but shall be entitled to receive notice of and attend all general meetings of the Company and all separate general meetings of the holders of any class of shares in the capital of the Company.
87. Meetings of the Directors shall be held exclusively in Ireland.
88. (a) 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, subject to the provisions of the Acts and of these Articles. Any Director so appointed shall hold office on until the next following annual general meeting and shall then be eligible for re-election.
- (b) Any Director may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any person (including another Director) to be his alternate Director and may in like manner at any time terminate such appointment. Such appointment, unless previously approved by the Directors or unless the appointee is himself a Director (in which latter event no approval shall be required) shall have effect only upon and subject to being approved by the Directors and the Central Bank which approval is not required for an alternate Director for a first Director.

- (c) The appointment of an alternate Director shall terminate on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor ceases to be a Director.
89. 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 of these Articles shall apply as if he (instead of his appointor) were a Director. Any Director who is appointed as an alternate Director shall be entitled at a meeting of the Directors to cast a vote on behalf of his appointor in addition to the vote to which he is entitled in his own capacity as a Director of the Company, and shall also be considered as two Directors for the purpose of making a quorum of Directors when such quorum shall exceed two. If his appointor is for the time being temporarily unable to act through ill-health or disability his signature to any resolution in writing of the Directors 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 committees of the Directors, the foregoing provisions or this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which is appointor is a Member. An alternate Director shall not (save as aforesaid) have power to act as a Director nor shall he be deemed to be a Director for the purposes of these Articles.
90. 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 Company 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 Company from time to time direct.
91. The office of a Director shall be vacated automatically 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 a declaration is made or deemed to be made in respect of him under Part 14 of the Act;
  - (c) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (d) if he becomes of unsound mind;
  - (e) if he is absent from meetings of the Directors for twelve successive months without leave expressed by a resolution of the Directors, and the Directors resolve that his office be vacated;

- (f) if he ceases to be a Director by virtue of any provision of the Acts, or becomes prohibited from being a Director by reason of, an order made under any provisions of any law or enactment; and
  - (g) if he be required in writing by all the other Directors (not being less than two in number) to vacate office; and
  - (h) if he is removed from office by an Ordinary Resolution of the Company in general meeting.
92. The Company at any general meeting at which a Director retires or is removed shall fill the vacated office by electing a Director, unless the Company shall determine to reduce the number of Directors.
93. At least seven days' previous notice in writing shall be given to the Company of the intention of any Member to propose any person for election to the office of Director and such notice shall be accompanied by a declaration in writing signed by the person to be proposed confirming his willingness to be appointed; PROVIDED ALWAYS that if the Members present at a general meeting unanimously consent, the Chairman of such Meeting may waive the said notice and submit to the Meeting the name of any person so nominated (provided such person confirms in writing his willingness to be appointed).
94. At a general meeting a motion for the appointment of two or more persons as Directors or the Company by a single resolution shall not be made unless a resolution that it shall be so made has been first agreed to by the meeting without any vote being given against it.

### **TRANSACTIONS WITH DIRECTORS**

95. (a) A Director may hold any other office or place of profit under the Company in conjunction with his office of Director on such terms as to tenure of office, and otherwise as the Directors may determine.
- (b) No Director or intending Director shall be disqualified by his office from contracting with the Company either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company or in which the Company is interested, 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 Company 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. A Director who is in any way, whether directly or indirectly, interested in such a contract or arrangement or proposed contract or arrangement with the Company shall declare the nature of his interest at the meeting of the Directors at which the question of entering into a contract or arrangement is first taken into consideration, if his interest then exists, or in any other case at the first meeting of the Directors after he becomes so interested. A general notice given by a Director to the effect that he is a Member of a specified company, society or firm and is to be regarded as interested in all transactions with such company, society or firm shall be a

sufficient declaration of interest under this Article, and after such general notice it shall not be necessary to give any special notice relating to any subsequent transaction with such company or firm, provided that either the notice is given at a meeting of the Directors or the Director giving the notice takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given.

- (c) Subject to paragraph ~~95(b)~~<sup>95.(b)</sup> above, a Director may vote in respect of any contract, appointment or arrangement in which he is interested and he shall be counted in the quorum present at the meeting.
96. Any Director may act by himself or through his firm or corporate entity in a professional capacity for the Company, and he or his firm or corporate entity shall be entitled to remuneration for professional services as if he were not a Director.
97. Any Director may continue to be or become a director, managing director, manager or other officer or Member of any company promoted by the Company or in which the Company may be interested, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or Member of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the Company or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to directors, managing directors, managers or other officers of such company).

### POWERS OF DIRECTORS

98. (1) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not by the Acts or by these Articles required to be exercised by the Company in general meeting including the powers of the Company to borrow money, to mortgage or charge its undertaking, property and assets or any part thereof and to issue debentures, debenture stock or other securities, whether outright or as security for debts, subject nevertheless to these Articles, to the provisions of the Acts, and to such directions, being not inconsistent with these Articles or provisos as may be prescribed by the Company in general meeting, but no direction made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such direction had already been made. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article.
- (2) The Directors shall at all times procure that the investment policy of the Company (and of any Fund in respect of which they may have adopted any investment restrictions pursuant to Article ~~21(3)~~<sup>21.(b)(i)(3)</sup>) is conducted and implemented in accordance with Part 8 of the Regulations, provided that
- (a) the States, local authorities or public international bodies (of which one or more Member States are Members) issuing or guaranteeing



securities in which it intends to invest more than 35% of its net assets, pursuant to the UCITS Rules shall be each Member State (and their respective local authorities), a Member of the OECD, 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), Government of Singapore or one of the following bodies: European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, European Central Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), 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, Export-Import Bank;

- (b) the Company shall employ techniques and instruments relating to transferable securities for efficient portfolio management or as an investment policy in its own right under the conditions and within the limits laid down by the Central Bank; and
  - (c) the Company may acquire shares in a company managed by the Manager or by any other company with which the Manager is linked by common management or control, or by a substantial direct or indirect holding, which, in accordance with its Constitution, has specialised in investment in a specific geographical area or economic sector, and provided that no fees or costs are charged by the Manager on account of transactions relating to such acquisition and such investment is authorised by the Central Bank.
- (3) The transferable securities in which the Directors may invest the Funds of the Company must be dealt in or quoted on a Recognised Market.
- (4) (a) Without prejudice to the limits specified in the UCITS Rules the limit in Regulation 70(1)(a) (as may be amended from time to time) is raised to 20% for investments in shares and/or debt securities issued by the same body where the investment policy of the Fund is to replicate an index (the details of which shall be set out in the applicable Supplement for that Fund). The index must be recognised by the Central Bank on the basis that it is (i) sufficiently diversified; (ii) represents an adequate benchmark for the market to which it refers; and (iii) is published in an appropriate manner.
- (b) The Central Bank may raise the limit in Regulation 70(1)(a) (as may be amended from time to time) to a maximum of 35% where that proves to be justified by exceptional market conditions in particular in regulated markets where certain transferable securities or money

market instruments are highly dominant. The investment up to this limit is only permitted for a single issuer.

99. The Directors may from time to time and at any time by power of attorney under the Seal, 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 Company for such purposes and with such powers authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorneys 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 as more particularly described in Article 15 hereof.
100. All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments, and all receipts for moneys paid to the Company 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.

#### **PROCEEDINGS OF DIRECTORS**

101. 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 may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
102. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two.
103. 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 these Articles, the continuing Directors or Director may act for the purpose of filling up vacancies in their number, or of summoning general meetings of the Company, 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.
104. 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. The Chairman or, failing him, the Deputy Chairman shall preside at all meetings of the Directors, but if there be no Chairman or Deputy Chairman, or if at any meeting the Chairman or Deputy Chairman be not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.
105. A resolution in writing signed by all the Directors for the time being entitled to receive a notice of a meeting of the Directors shall be as valid and effectual as a

resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form each signed by one or more of the Directors.

106. A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.
107. Without prejudice to the powers of delegation conferred by Article ~~6(2)~~~~6(e)(2)~~ hereof, the Directors may delegate any of their powers to committees consisting of such Member or Members of their body as they think fit and, if thought fit, one or more other persons. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Directors.
108. The meetings and proceedings of any such committee consisting of two or more Directors shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations made by the Directors under the last preceding Article.
109. 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 Director 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.
110. 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 Company and of the Directors and of committees of Directors,

Any such minutes, 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.

111. A register of Directors' share holdings shall be kept at the Office and shall be open to the inspection in accordance with the requirements of the Acts. The said register shall also be produced at least one hour before the appointment time for the commencement of each annual general meeting and shall remain open and accessible during the continuance of the meeting to any person attending the meeting.
112. Any director may participate in a meeting of the Directors by means of telephone or other similar means of communication whereby all persons participating in the meeting can hear each other speak; and participation in a meeting in this manner shall constitute presence in person of such meeting and each participant shall be entitled to vote or be counted in a quorum accordingly. Any such meeting shall be deemed to take place where the majority of the participating directors are located or, if there is

no such group, where the Chairman of the meeting is present and, if neither applies, in such location as the meeting decides.

### **BORROWING AND OTHER POWERS**

113. (1) Subject as hereinafter provided the Directors may exercise all the powers of the Company to borrow money (including the power to borrow for the purpose of redeeming Shares) and charge, to issue debentures, debenture stock or other securities, whether outright or as collateral security for any debt liability or obligation of the Company or of any third party, provided that no borrowings shall be made save in accordance with the UCITS Rules and the limits laid down by the Central Bank.
- (2) The Company may not grant loans nor act as a guarantor on behalf of third parties save in accordance with the UCITS Rules.
- (3) The Company may not carry out sales of transferable securities when such securities are not in its ownership.

### **MANAGING DIRECTOR**

114. (1) The Directors may from time to time appoint one or more of their body to be a Managing Director or Managing Directors of the Company and may fix his or their remuneration.
- (2) 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 Company in general meeting.
115. A Managing Director shall not, while he continues to hold that office, be liable to retire by rotation (if the Articles should so provide in the case of Directors generally) and he shall not be taken into account in determining the rotation in which the other Directors shall retire (except for the purpose of fixing the number to retire in each year), but he shall be subject to the same provisions as to removal and disqualification as the other Directors and if he ceases to hold the office of Director from any cause he shall ipso facto cease to be a Managing Director.
116. 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.

### **SECRETARY**

117. Subject to the provisions of the Acts, the Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they think fit and any secretary so appointed may be removed by them, but without prejudice to any claim for damages for breach of any contract of service between him and the Company. If thought fit, two or more persons may be appointed joint secretaries. 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 Company authorised generally or specifically in that behalf by the Directors PROVIDED THAT any provisions of these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

### THE SEAL

118. The Directors shall provide a common seal for the Company and shall have power from time to time to destroy the same and to substitute a new seal in lieu thereof. The Directors shall provide for the safe custody of the seal and the seal shall never be used except by the authority of a resolution of the Directors or of a committee of the Directors authorised by the Directors in that behalf. The Directors may from time to time as they see fit or (subject to the provisions of these Articles relating to share certificates) determine the person and the number of such persons in whose presence the seal shall be used, and until otherwise and so determined the seal shall be affixed in the presence of two Directors or one Director and the Secretary, or some other person duly authorised by the Directors.
119. The Directors may exercise the powers conferred on the Company by the Acts with regard to having an official seal solely for sealing documents creating or evidencing securities of the Company.
120. The Company may exercise the powers conferred by section 41 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

### DIVIDENDS

121. (a) The Company in general meeting may declare dividends on the Participating Shares of each Fund but no dividend shall exceed the amount recommended by the Directors in respect of each Fund respectively. The Directors may differentiate between the different Funds, as to the amount (if any) of any dividend recommended in respect of each Fund. Furthermore, in accordance with Article ~~13(6)~~~~13.(b)(i)(6)~~, where the Directors have created different types of Participating Shares within each Fund, they may differentiate between the different types as to the amount (if any) of any dividend recommended in respect of each Fund. Details of such dividend policies in respect of any Fund or type of Participating Shares within a Fund will be set out in the applicable Supplement for that Fund. The Directors may from time to time if they think fit pay such interim dividends on Participating Shares of any Fund as appear to the Directors to be justified, and may specify a fixed date or dates of payment of dividend for a particular Fund or Funds (or types within such Fund(s)).

- (b) The dividend for any particular class of Participating Share shall be paid only out of profits available for distribution out of the Fund relating to that class of Participating Shares. The maximum rate of any dividend payable on Participating Shares in respect of each financial year of the Company shall be calculated by the Directors and shall be arrived at by dividing the amount of profits of a Fund (including any amounts treated as profits in accordance with the accounting policies of the Company laid down from time to time) after tax and after expenses charged against income. The profits of a Fund may also include realised gains net of realised and unrealised losses as may be set out in the Supplement for a Fund. Income equalisation may also be applied in respect of the Participating Shares in a Fund in the manner set out in the Prospectus and/or Supplement for a Fund. Distribution may also be made from the capital element of any Fund in accordance with the requirements of the Central Bank and where it is intended that distributions are paid out of capital, this will be set out in the applicable Supplement for a Fund. Furthermore, certain Funds may charge all or part of fees and expenses to the capital of the relevant Fund, details of which shall also be set out in the relevant Supplement for that Fund.
122. The Directors may, with the sanction of a resolution in general meeting of the holders of Participating Shares of any Fund, distribute in kind among the Shareholders of that Fund by way of dividend or otherwise any of the assets of the relevant Fund provided that no distribution shall be made which would amount to a reduction of capital except in a manner allowed by law.
123. All Participating Shares shall unless otherwise determined by the Directors or by the terms of issue thereof rank for dividend as from the beginning of the accounting period in which they are issued.
124. Any resolution of the Directors declaring a dividend on the Participating Shares of any Fund and any resolution of the Directors for the payment of a fixed dividend on the date prescribed for the payment thereof may specify that the same shall be payable to the persons registered as the holders of Participating Shares of the Fund concerned 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 (or, as the case may be, that prescribed for payment of a fixed dividend), and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend of transferors and transferees of Participating Shares of the relevant Fund.
125. The Company may transmit any dividend or other amount payable in respect of any Participating Share by electronic transfer or by cheque or warrant sent by ordinary post to the registered address of the holder, or, in the case of joint holders, of one of them to such person and address as the holder or joint holders may direct, and shall not be responsible for any loss arising in respect of such transmission.
126. No dividend or other amount payable to any Shareholder shall bear interest against the Company. All unclaimed dividend and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the Company until claimed. Payment by the Company of any unclaimed dividend or other amount payable in respect of a Participating Share into a separate account shall not constitute the

Company a trustee in respect thereof. Any dividend unclaimed after twelve years from the date when it first became payable shall be forfeited to the relevant Fund automatically, without the necessity for any declaration or other action by the Company.

127. The Directors (or their agents) may :

- (i) deduct from any dividend payment (or other distribution) to a holder of Participating Shares all sums necessary; or
- (ii) compulsorily repurchase or redeem from a holder of Participating Shares' holding of Participating Shares, Participating Shares of such value as is necessary,

to offset any liability to taxation or withholding tax arising as a result of the dividend payment to the relevant holder of Participating Shares.

### **FINANCIAL STATEMENTS**

128. The Directors in accordance with Chapter 2 of Part 6 of the Act shall cause to be kept adequate accounting records, whether in the form of documents, electronic form or otherwise.

129. The accounting records shall be kept at the Office, subject to the requirements of the Acts, at such other place as the Directors think fit, and shall always be open at all reasonable times to inspection by the Directors. No Member (other than a Director) shall have any right of inspecting any accounting record or document of the Company except as conferred by the Acts or authorised by the Directors or by the Company in general meeting.

130. The Directors shall from time to time in accordance with the provisions of the Acts and the UCITS Rules, cause to be prepared and to be laid before the Company in general meeting in respect of the Company as a whole statutory financial statements of the Company and reports as are specified in the Acts made up to the Accounting Date in each year or such other date as the Directors may from time to time decide.

131. A copy of every accounting record, financial statements of the Company and reports which are required by law to be laid before the Company in general meeting, together with the Auditor's and Director's report or summary financial statements prepared in accordance with section 1119 of the Act thereon shall not less than 21 days previous to the annual general meeting be served on every Member, and every holder of debentures of the Company and to every other person who is entitled to receive notices of general meetings from the Company under the provisions of the Acts. Such documents shall include all information required to be specified therein by the UCITS Rules.

132. The Company shall prepare an un-audited half yearly report for the first six months of each financial year. Such report shall be in a form approved by the Central Bank and shall contain the information required under the Act.

133. Copies of the half yearly report shall be sent to the Shareholders not later than two months from the end of the period to which it relates.

134. The Company shall provide the Designated Authority with all reports and information to which it is entitled under the Act.

### **CAPITALISATION OF PROFITS**

135. The Company in General Meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts (including capital reserve) or to the credit of the profit and loss account or which is otherwise available for distribution and not required for payment of dividends on any Shares with a preferential right to dividend amongst the Members 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 Company to be allotted and distributed credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution.
136. Whenever such a resolution as aforesaid shall have been passed, 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 or debentures, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision as they shall think fit for the case of Shares or debentures becoming distributable in fractions (and in particular, without prejudice to the generality of the foregoing, to sell the Shares or debentures represented by such fractions and distribute the net proceeds of such sale amongst the Members otherwise entitled to such fractions in due proportions) and also to authorise any person to enter on behalf of all the Members concerned into an agreement with the Company providing for the allotment to them respectively credited as fully paid up of any further Shares or debentures to which they may become entitled on such capitalisation or, as the case may require, for the payment up by the application thereto of their respective proportions of the profits resolved to be capitalised of the amounts remaining unpaid on their existing Shares and any agreement made under such authority shall be effective and binding on all such Members.

### **AUDIT**

137. Auditors shall be appointed and their duties regulated in accordance with the Acts and the UCITS Rules.

### **NOTICES**

138. Any notice or document may be served by the Company on any Member either personally or by sending it through the post in a prepaid letter addressed to such Member at his address as appearing in the Register or may be sent by Electronic Means to such Electronic Address as may have been provided to the Company by the Member. In the case of joint holders of a Share, all notices shall be given to that one of the joint holders whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.
139. Notice of every general meeting shall be given in any manner hereinbefore authorised to:



- (a) every Member in the Company;
- (b) every person upon whom the ownership of a Share devolves by reason of his being a personal representative or the Official Assignee in bankruptcy of a member, where the member but for his death or bankruptcy would be entitled to receive notice of the meeting;
- (c) the Directors;
- (d) the Secretary; and
- (e) the Auditors.

No other person shall be entitled to receive notices of general meetings.

- 140. A notice or other document addressed to a Shareholder at his registered address or address for service shall if served by post be deemed to have been served in the case of notice of a meeting at the expiration of 72 hours after it shall have been posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the notice or document was properly addressed, stamped and posted.
- 141. Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of these Articles shall notwithstanding that such Shareholder be then dead or bankrupt, and whether or not the Company has notice of his death or bankruptcy, be deemed to have been duly served in respect of any Participating Share registered in the name of such Shareholder as sole or joint holder, unless his name shall at the time of the service of the notice of document, have been removed from the Register as the holder of the Share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the Participating Share.
- 142. Where a notice, document or other information is given, served or delivered in electronic form whether as an electronic communication or otherwise, it shall be treated as having been given, served or delivered:
  - (i) if given, served or delivered by electronic mail, at the time it was sent; or
  - (ii) where any such notice or document is given, served or delivered by being made available or displayed on a website, when the recipient received or is deemed to have received notice of the fact that the notice, document or other information was available on the website.
- 143. Notices to be posted to addresses outside Ireland and the United Kingdom shall so far as practicable be forwarded by prepaid airmail.
- 144. Any Member present, in person or by proxy, at any meeting of the Company shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.

145. Any summons, notice, order or other document required to be sent to or served upon the Company, or upon any officer of the Company may be sent or served by leaving the same or sending it through the post in a prepaid letter envelope or wrapper, addressed to the Company or to such officer at the Office.
146. The signature to any notice or other document to be given by the Company may be written or printed.

## WINDING UP

147. (1) If the Company shall be wound up the liquidator shall apply the assets of the Company in such manner and order as he thinks fit in satisfaction of creditors' claims. The liquidator shall in relation to the assets available for distribution among the Members make in the books of the Company such transfers thereof to and from Funds as may be necessary in order that the effective burden of such creditors' claims may be shared between the holders of Shares of different Funds in such proportions as the liquidator in his absolute discretion may think equitable having regard to the provisions of Article 21 hereof and the Acts.
- (2) The assets available for distribution among the Members shall then be applied in the following priority:
- (i) First, in the payment to the holders of the Participating Shares of each Fund of a sum in the currency in which that Fund is designated (or in any other currency selected by the liquidator) as nearly as possible equal (at a rate of exchange determined by the liquidator) to the Net Asset Value of the Participating Shares of such Fund held by such holders respectively as at the date of commencement to wind up provided that there are sufficient assets available in the relevant Fund to enable such payments to be made. In the event that, as regards any Fund, there are insufficient assets available in the relevant Fund to enable such payment to be made recourse shall be had:
- a) first, the assets of the Company not comprised within any of the Funds; and
- b) secondly, to the assets remaining in the Funds for the other classes of Participating Shares (after payment to the holders of the Participating Shares of the classes to which they relate of the amounts to which they are respectively entitled under this paragraph 147(i)~~147.(b)(i)~~) pro rata to the total value of such assets remaining within each such Fund.
- (ii) Secondly, in the payment to the holders of the Subscriber Shares of sums up to the nominal amount paid thereon out of the assets of the Company not comprised within any of the Funds remaining after any recourse thereto under paragraph 147(i)~~147.(b)(i)~~ above. In the event that there are insufficient assets as aforesaid to enable such payment in

full to be made, no recourse shall be had to the assets comprised within any of the Funds.

- (iii) Thirdly, in the payment to the holders of each class of Participating Shares of any balance then remaining in the relevant Fund, such payment being made in proportion to the number of Shares of that Fund held.
  - (iv) Fourthly, in the payment to the holders of the Participating Shares of any balance then remaining and not comprised within any of the Funds, such payment being made in proportion to the number of Participating Shares held.
- (3) If the Company shall be wound up (whether the liquidation is voluntary, under supervision or by the court) the liquidator may, with the authority of a Special Resolution and any other sanction required by the Acts, divide among the Members in specie the whole or any part of the assets of the Company, and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he deems fair upon any one or more class or classes of property, and may determine how such division shall be carried out as between the Members. The liquidator may, with the like authority, vest any part of the assets in trustees on such trusts for the benefit of Members as the liquidator, with the like authority, shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but so that no Member shall be compelled to accept any assets in respect of which there is any liability. For the avoidance of doubt, if the Special Resolution above is passed, each Member is entitled to elect on winding-up whether or not he wishes to receive a distribution in specie or a cash distribution made in accordance with the provisions of Article ~~147(i)~~~~147.(b)(i)~~. However, in the absence of a Member electing to receive a distribution in specie on winding-up, such Member shall receive a cash distribution payment in accordance with the provisions of Article ~~147(i)~~~~147.(b)(i)~~. Furthermore, where the Company agrees to sell the assets if requested by a Shareholder, the costs of such sale can be charged to the redeeming Shareholder.

## INDEMNITY

148. (1) Subject to the provisions of and insofar as may be permitted by the Acts and the Act, every Director, Secretary and other officer or servant of the Company shall be indemnified by the Company against, and it shall be the duty of the Directors out of the funds of the Company to pay all costs, losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into, or act or thing done by him as such officer or servant or in any way in discharge of his duties, including travelling expenses, and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the Company and have priority as between the Members over all other claims.
- (2) The Depositary and the Manager shall be entitled to such indemnity from the Company under such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the Company with a

view to meeting and discharging the cost thereof as shall be provided under the Depositary Agreement and the Management Agreement.

### **RESERVES**

149. The Directors may before declaring any dividends set aside out of the profits of the Company and carry to the credit of any reserve account such sums as they think proper, which shall, at the discretion of the Directors, be applicable for any purpose to which the profits or reserves may be properly applied and pending such application may at the like discretion either be employed in the business of the Company or be invested in such Investments as the Directors may from time to time think fit. The Directors may also carry forward to the accounts of the succeeding year or years any balance of profits which they shall think fit neither to divide nor to place to reserve.

### **DEALINGS BY THE MANAGER ETC.**

150. Any person being the Manager, the Administrator, the Depositary and any associate of the Manager, the Administrator or the Depositary may:
- (b) become the owner of Participating Shares in the Company and hold, dispose or otherwise deal with Participating Shares as if that person were not such a person; or
  - (c) deal in property of any description on that person's individual account notwithstanding the fact that property of that description is included in the property of the Company; or
  - (d) act as agent or principal in the sale or purchase of property to or from the Depositary for the account of the Company without that person's having to account to any other such person, to the Members or to any of them for any profits or benefits made by or derived from or in connection with any such transaction provided that such transactions are carried out as if effected on normal commercial terms negotiated at arms length, are in the best interests of the Shareholders; and
    - (i) a certified valuation of such transaction by a person approved by the Depositary as independent and competent has been obtained; or
    - (ii) such transaction has been executed on best terms on an organised investment exchange under its rules; or
    - (iii) where (i) and (ii) are not practical, such transaction has been executed on terms which the Depositary is satisfied conform with the principle that such transactions be carried out as if effected on normal commercial terms negotiated at arms length.

### **RESTRICTION ON MODIFICATIONS TO THE CONSTITUTION**

151. No modification shall be made to the Constitution of the Company which would result in the Company ceasing to be authorised under the Acts.

## **DESTRUCTION OF DOCUMENTS**

152. The Company shall be entitled to destroy all instruments of transfer of Shares which have been registered at any time after the expiration of six years from the date of registration thereof and all dividend mandates and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of one year from the date of cancellation thereof and it shall conclusively be presumed in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other documents so destroyed was a valid and effective instrument duly and properly registered and every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and every other document hereinbefore mentioned in accordance with the recorded particulars thereof in the books or records of the Company. PROVIDED ALWAYS that:
- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
  - (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Article; and
  - (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

## **TOTAL REPURCHASE**

153. The Company may, by not less than four, nor more than twelve weeks' notice to all Members, repurchase at the Net Asset Value per Participating Share on such Dealing Day, all (but not some) of the Participating Shares in issue for any class of Participating Share or all classes of Participating Shares on such date in the following instances:-
- (i) if the Company or any Fund is no longer an authorised UCITS;
  - (ii) if any law is passed which renders it illegal or, in the reasonable opinion of the Directors it is impracticable or inadvisable, to continue the Company or any Fund;
  - (iii) if within a period of 120 days from the date on which the Depositary notifies the Company of its desire to retire in accordance with the terms of the Depositary Agreement, or from the date on which the appointment of the Depositary is terminated by the Company in accordance with the terms of the Depositary Agreement, or from the date on which the Depositary ceases to be qualified under Article 8 hereof, no new Depositary shall have been appointed;
- provided that such repurchase does not result in the issued share capital being reduced to below the minimum amount permitted under the Acts.

## CONVERSION TO ICAV

154. In accordance with the requirements of the Central Bank and applicable law, the Company is permitted to apply to the Central Bank to be registered as an ICAV by way of continuation or otherwise. The Company or any of its delegate(s) shall do all such acts and things as may be necessary to give effect to the conversion to ICAV in accordance with applicable law, the requirements of the Central Bank and the Constitution.

## OVERRIDING PROVISIONS

~~154.~~155. The Company's business will be conducted in accordance with the Acts. In the event of there being any conflict between the provisions of these Articles and the Acts, the Acts shall prevail. The approval of the Central Bank shall be required to any amendment to these Articles.

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WE, the several persons whose names, and addresses are subscribed, wish to be formed into a Company in pursuance of this Memorandum of Association, and we agree the number of shares in the capital of the Company set opposite our respective names.

<b>Names, Addresses and Descriptions of Subscribers</b>	<b>Number of Shares taken by each Subscriber</b>
J O Hambro Capital Management Limited Ground Floor Ryder Court 14 Ryder Street London SW1 6QR  Limited Liability Company  Director/Authorised Signatory	One
James Daryl Hambro 15 Elm Park Road London SW3 6BP England  Company Director	One
Nichola Pease 6 Swan Walk Chelsea London SW3 4JJ England  Investment Manager	One
Graham Warner Ground Floor Ryder Court 14 Ryder Street London SW1 6QR  Finance Director	One
Robert Barrett Ground Floor Ryder Court 14 Ryder Street London SW1 6QR England  Director	One

Rachel Butlin  
Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1 6QR  
England

One

Company Secretary

Ryan Corton  
Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1 6QR  
England

One

Head of Operations

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Total Shares taken

Seven

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Dated 24 May 2001

Witness to the above signatures:-

Name:

Bonita Dryden

Address:

c/o Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1Y 6QB



## APPENDIX IV

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

**AND**

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

**INSTRUMENT OF INCORPORATION**

**OF**

**PERPETUAL INVESTMENT SERVICES EUROPE ICAV**

**AN IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE WITH VARIABLE  
CAPITAL**

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

**McCann FitzGerald LLP**

Solicitors

Riverside One

Sir John Rogerson's Quay

Dublin 2

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

**AND**

**EUROPEAN COMMUNITIES (UNDERTAKINGS FOR  
COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES)  
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**INSTRUMENT OF INCORPORATION**

**OF**

**PERPETUAL INVESTMENT SERVICES EUROPE ICAV**

1. The name of the ICAV is PERPETUAL INVESTMENT SERVICES EUROPE ICAV.

The ICAV is an Irish collective asset-management vehicle established pursuant to the Act, the sole object of which is the collective investment of its funds in either or both transferable securities and other liquid financial assets of capital raised from the public, operating on the principle of risk-spreading, as permitted by the Central Bank in accordance with the Regulations, the UCITS Rules, the giving to Shareholders the benefit of the results of the management of its funds, as further described in the Prospectus and as may be further amended from time to time, of capital raised from the public, operating on the principle of risk spreading.

For the purposes of achieving the sole object in Clause 2 above, the ICAV shall have, subject to applicable law, full and unlimited capacity to carry on and undertake any business or activity, do any act or enter into any transaction and, for such purposes, shall have full rights, powers and privileges and shall also have without limitation the following powers:-

- (1) To carry on business as an Irish collective asset-management vehicle, to acquire by original subscription or otherwise, invest in and hold by way of investment shares, stocks, debentures, debenture stock, bonds, obligations, certificates of deposit, treasury bills, trade bills, bank acceptances, bills of exchange, promissory notes and securities of all kinds created or issued or guaranteed by any government or governmental or like authority or otherwise, in any part of the world, or by any company, organisation, bank, association or partnership, whether with limited or unlimited liability, constituted or carrying on business in any part of the world, units of or participations in any unit trust scheme, mutual fund or Collective Investment Scheme in any part of the world (including cross-investment in sub-funds of the ICAV), policies of assurance and insurance, domestic and foreign currency and any present or future rights and interests to or in any of the foregoing, futures contracts, options contracts, swap contracts, contracts for differences and currency forward exchange contracts 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 and all other assets permitted by the Act.

- (2) To deposit money and/or securities and to deal in bills, notes, warrants, coupons, and other negotiable or transferable securities or documents.
- (3) To acquire for the purpose of its business lands and real or personal property of any kind and generally to manage, deal with and improve the property of the ICAV, and to sell, lease, let, mortgage or otherwise dispose of the lands and other property of the ICAV.
- (4) To borrow or raise money in any currency and secure or discharge any debt or obligation of or binding on the ICAV in any manner.
- (5) To guarantee the payment of money by or the performance of any contracts, liabilities, obligations of every description of any company, firm or person and to grant guarantees and indemnities of every description.
- (6) To enter into any arrangements with any government or governmental or like authority, and to obtain from any such government or authority any rights and benefits that may seem conducive to the objects of the ICAV or any of them.
- (7) To act as secretaries, managers, registrars, transfer agents or as trustees for any person, firm or company, and to carry on any kind of financial, agency, broking or other operations.
- (8) To enter into partnerships or into any arrangement for sharing profits, joint venture, reciprocal concessions or co-operation with any person.
- (9) To establish and/or carry on any other business which may be conveniently carried on in connection with any business which the ICAV is authorised to carry on.
- (10) To promote any company or companies for the purpose of its or their acquiring all or any of the property, rights and liabilities of the ICAV, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV, and to pay all the expenses of or incidental to such promotion.
- (11) To pay out of the funds of the ICAV all expenses which the ICAV may lawfully pay incidental to the formation, registration and advertising of or raising money for the ICAV and the issue of its capital any regulatory fees, including brokerage and commissions for obtaining applications for or taking, placing or underwriting shares or debentures. For the avoidance of doubt, all fees and expenses properly incurred by the Funds of the ICAV may be charged to the capital of the ICAV.
- (12) To do all such other things as the ICAV may deem incidental or conducive to the attainment of any of the aforesaid objects of the ICAV.

- (13) To procure the ICAV to be registered or recognised in any country or place abroad.
- (14) To engage in currency and interest rate transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or from any other risk or factor affecting the ICAV's business, including but not limited to dealings, whether involving purchases, sales or otherwise in foreign and Irish currency, spot and forward exchange rate contracts, forward rate agreements, contracts for differences, caps, floors and collars, futures, options, swaps, and any other currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of, any of the foregoing.

The objects, purposes and powers specified in each of the paragraphs of this clause shall be regarded as independent objects, purposes and powers, and accordingly shall not be limited or restricted (except where otherwise expressed in such paragraph) by the matters indicated in any other paragraph or the order in which the same occur or by reference to the name of the ICAV.

And it is hereby declared that the word "company" in this Clause shall be deemed to include any partnership or other body of persons, whether or not incorporated.

The share capital of the ICAV is €40 ,000, divided into 40,000 Subscriber Shares of one euro (€1.00) each and 500,000,000,000 Participating Shares of no par value.

The liability of each shareholder is limited.

# PERPETUAL INVESTMENT SERVICES EUROPE ICAV

## INSTRUMENT OF INCORPORATION

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

**AND**

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

**INSTRUMENT OF INCORPORATION**

**OF**

**PERPETUAL INVESTMENT SERVICES EUROPE ICAV**

**AN IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE WITH VARIABLE  
CAPITAL**

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

**INTERPRETATION**

2. In this Instrument of Incorporation, the following words and expressions shall have the following meanings, if not inconsistent with the subject or context.

**“Accounting Date”** such date as the Directors may from time to time decide.

the **“Act”** means the Irish Collective Asset-management Vehicles Act 2015 and every statute or other provision of law modifying, extending or re-enacting **it**;

**“Administrator”** means the person appointed and for the time being acting as Administrator of the assets of the ICAV.

**“Article”** means the clauses set out within this Instrument of Incorporation;

the **“Auditor”** means the statutory Auditor or statutory Auditors for the time being of the ICAV.

**“Base Currency”** means the base currency of account of a Fund as determined by the Directors at the time of creation of the Fund and as disclosed in the Prospectus or applicable Supplement.

**“Business Day”** has the meaning ascribed to it in the Prospectus or applicable Supplement.



**“Central Bank”** means the Central Bank of Ireland, or any successor regulator in respect of the ICAV.

**“Central Bank UCITS Regulations”** means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019 and any other statutory instrument, regulations, rules, conditions, notices, requirements or guidance of the Central Bank issued from time to time applicable to the ICAV.

**“Close of Business”** means 5.00 pm Irish time on any day or such other time on any day as the Directors, with the consent of the Administrator, may determine for an individual Fund.

**“Collective Investment Scheme”** means:-

- (a) any arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of investments or any other property whatsoever; and
- (b) any other investment vehicle of a similar nature to that described in paragraph (a) of this definition (including, without limitation, an open-ended investment company, mutual fund or fonds commun de placement) and, in relation to any such collective investment scheme, “unit” means any unit, share or other interest (however described) of similar nature in such collective investment scheme.

**“Contract Note”** means a written confirmation issued by the ICAV pursuant to Articles 27 to 32 hereof.

**“Dealing Day”** means any Business Day or such other day as the directors may from time to time determine on which Shares in a Fund can be purchased or redeemed as set out in the applicable Supplement for that Fund provided that there should not be less than two Dealing Days in respect of each Fund per month except during a period of suspension of issues and redemptions of Participating Shares as described in Article 22 below provided further that if the Manager, decides to change such day or the interval between such days (other than in the case of a temporary change) it shall give reasonable notice of such change to the Shareholders in the relevant Fund and to the Central Bank in such manner as shall be approved by the Depositary.

**“Depositary”** means the company appointed and for the time being acting as depositary of the assets of the ICAV pursuant to Articles 7- 9 hereof.

**“Depositary Agreement”** means the agreement from time to time subsisting between the ICAV and the Depositary relating to the appointment and duties of the Depositary.

**“Directors”** means the Directors of the ICAV for the time being, or as the case may be, the Directors present at a meeting of the board of the Directors or any duly constituted committee thereof.

**“Duties and Charges”** means all stamp and other duties, taxes, governmental charges, brokerage, bank charges, transfer fees, registration fees and other duties and

charges arising in connection with any transaction or dealing in any assets of the ICAV but shall not include any commission charges or costs which may have been taken into account in ascertaining the value of the Net Assets.

**“Electronic Address”** means any address or number used for the purposes of sending or receiving documents or information by Electronic Means.

**“Electronic Means”** are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.

**“Euro”** or **“€”** means the currency referred to in the second sentence of Article 2 of the Council Regulation (EC) No. 974/98 of 3 May 1998 and as adopted as the single currency of the participating European Union Member States.

**“Fund”** means a Fund maintained in accordance with Article 20 hereof in respect of which each class of Participating Shares, to which all assets and liabilities, income and expenditure attributable or allocated to each such class shall be applied or charged.

**“ICAV”** means Perpetual Investment Services Europe ICAV

**“Instrument of Incorporation”** means this instrument of incorporation;

**“Investment”** means any investment authorised by the Instrument of Incorporation of the ICAV and which is permitted by Part 8 of the Regulations.

**“Investment Manager”** means any body corporate, unincorporated body, person or persons or other entity appointed and from time to time acting as investment manager to the ICAV or any Fund.

**“In writing”** includes written or printed or lithographed or photographed or represented by any other substitute for writing or partly one and partly another.

**“Manager”** means any company appointed and from time to time acting as Manager of the ICAV pursuant to Article 6 hereof.

**“Management Agreement”** means any agreement from time to time subsisting to which the ICAV and the Manager are parties relating to the appointment and duties of the Manager.

**“Member”** means a person who is registered as the holder of Participating Shares in the Register of Members for the time being kept by or on behalf of the ICAV.

**“Member State”** means, for the time being, a member state of the European Union.

**“Minimum Subscription”** means the minimum subscription amount in respect of any Fund as provided for in the applicable Supplement.

**“Month”** means calendar month.

**“Net Assets”** means the net assets of the ICAV as determined pursuant to Article 21 hereof.

**“Net Asset Value”** means the amount determined by reference to any particular Business Day or Dealing Day, as the case may be, pursuant to Article 21 hereof.

**“OECD”** means the Organisation for Economic Co-operation and Development and any member country thereof, respectively.

**“Office”** means the registered office of the ICAV.

**“Ordinary Resolution”** has the same meaning ascribed to it in the Act.

**“Paid Up”** shall include credited as paid up.

**“Participating Share”** means a Participating Share in the capital of the ICAV of no par value issued subject to and in accordance with the Act, the UCITS Rules and the Instrument of Incorporation of the ICAV with the rights provided for thereunder.

**“Prospectus”** means the prospectus to be issued by the ICAV (as may be amended or supplemented from time to time including any Supplement issued in respect of a Fund) in connection with the authorisation of the ICAV as an open-ended Irish collective asset-management vehicle by the Central Bank and the initial public offer for its Participating Shares.

**“Recognised Market”** means such markets that meet the regulatory criteria (regulated, operates regularly, recognised and open to the public) and which are listed in the Prospectus and/or Supplement from time to time. With the exception of permitted investments in unlisted securities, the ICAV will only invest in those securities and derivative instruments listed or traded on a stock exchange or market (including derivative markets) which meet the regulatory criteria mentioned above.

**“Redemption”** shall include repurchase.

**“Redemption Price”** means the price at which Participating Shares shall be redeemed calculated in accordance with Article 17 hereof.

**“Register”** means the register of Members to be kept pursuant to the Act.

**“Regulations”** means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 as amended, and every regulation or other provision of law modifying or extending them and any regulations or guidelines issued by the Central Bank pursuant thereto from time to time in force.

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

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

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

**“Shareholder”** means a Member.

**“Shares”** means the Participating Shares or the Subscriber Shares as the case may be.

**“Special Resolution”** has the same meaning ascribed to it in the Act.

**“Subscriber Share”** means a subscriber share in the capital of the ICAV issued in accordance with this Instrument of Incorporation.

**“Subscription Price”** means the price at which Participating Shares shall be issued calculated in accordance with Articles 14 and 5(c)(3) hereof.

**“Supplement”** means a supplement to the Prospectus containing information relating to a Fund.

**“UCITS”** means an undertaking for collective investment in transferable securities, as defined in the Regulations.

**“UCITS Directive”** means Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions;

**“UCITS Rules”** means all or any of the Regulations, the Central Bank UCITS Regulations and the UCITS Directive, as appropriate.

**“Valuation Date”** means the relevant Business Day on which the Net Asset Value of a Fund is calculated as set out in the applicable Supplement. For the avoidance of doubt, there will be a Valuation Date in respect of each Dealing Day.

**“Valuation Point”** means the relevant time on each Valuation Date at which the Net Asset Value of a Fund is calculated as set out in the applicable Supplement.

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

3. In this Instrument of Incorporation, 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.

4. Subject to the last two preceding Articles, any words or expressions defined in the Act or in the UCITS Rules shall, if not inconsistent with the subject or context, bear the same meaning in this Instrument of Incorporation.

### **PRELIMINARY**

5. The preliminary expenses incurred in forming the ICAV and in connection with the initial issue of its Participating Shares were paid by the ICAV.

### **MANAGEMENT**

6. (1) The Directors may appoint any company qualified to act as manager of a UCITS pursuant to the UCITS Rules and which has the approval of the Central Bank to act as Manager of the ICAV and may entrust to and confer upon the Manager so appointed any of the powers exercisable by them as Directors, upon such terms and conditions including the right to remuneration payable by the ICAV and with such powers of delegation and restrictions as they think fit and either collaterally with or to the exclusion of their own powers. The Manager may retire or be removed by the ICAV in accordance with the terms of any Management Agreement. Any new Manager appointed to the ICAV must be approved by the Central Bank.  
  
(2) The Manager, may in accordance with the requirements of the UCITS Rules, appoint any person, firm or corporation to be the Investment Manager, Administrator or registrar of the ICAV or to provide such other services as may be required by the ICAV, upon such terms and conditions including the right to remuneration payable or to be reimbursed by the ICAV or the Manager (either out of the assets of the relevant Fund or out of any fee payable by the ICAV to the Manager) and with such power of delegation and such restrictions as they think fit.

### **DEPOSITARY**

7. Before issuing any Participating Shares the Directors shall appoint a Depositary approved by the Central Bank which shall be responsible for the safe keeping of all the assets of the ICAV and carry out the functions required of a trustee and depositary by the UCITS Rules, and perform such other duties upon such terms as the Directors may from time to time (with the agreement of the Depositary) determine. The remuneration of the Depositary shall be payable by the ICAV.
8. (1) The Depositary shall be a company qualified to act as depositary of a UCITS pursuant to the UCITS Rules, and which has the approval of the Central Bank.  
  
(2) Notwithstanding the provisions of Article 8(2) the Depositary may with the consent of the Directors appoint any other person to hold as nominee for the Depositary any Investments which cannot conveniently be held by or in the name of the Depositary. The Depositary may upon the terms and conditions of the Depositary Agreement procure that Investments may be held by persons other than the Depositary.
9. (1) In the event of the ICAV wishing to remove the Depositary or of the Depositary desiring to retire the Directors shall use their best endeavours to

find a company willing to act as Depositary and having the qualifications referred to in Article 8 to act as Depositary and upon doing so the Directors shall appoint such company to be Depositary in place of the retiring Depositary.

- (2) If a Depositary shall give notice to the ICAV of its intention to retire and a replacement Depositary is not found by the Directors within the notice period set out in any agreement between the ICAV and such Depositary, the ICAV shall and is hereby authorised to repurchase all of the Participating Shares in issue except such number and value of shares as are required to ensure that any relevant minimum requirements as set out accordance with the Act, the UCITS Rules and the Instrument of Incorporation of the ICAV. Thereafter, the Directors shall take steps to procure that ICAV shall be wound up after the expiry of the relevant notice period.
- (2) In the event of the Depositary desiring to retire the Directors shall use their best endeavours to find a company willing to act as Depositary and having the qualifications referred to in Article 8 to act as Depositary and upon doing so the Directors shall appoint such company to be Depositary (subject to the prior approval of the Central Bank) in place of the retiring Depositary. The Depositary may not retire until a replacement Depositary is appointed or until the authorisation of the ICAV has been revoked by the Central Bank. If a replacement Depositary is not found by the Directors within the notice period set out in any agreement between the ICAV and such Depositary, the ICAV shall repurchase all of the Participating Shares in issue except such number and value of Participating Shares as are required to ensure that any relevant minimum requirements as set out accordance with the Act, the UCITS Rules and the Instrument of Incorporation of the ICAV. Thereafter, the Directors shall take steps to procure that the ICAV shall be wound up after the expiry of the relevant notice period. The appointment of the Depositary will terminate on the revocation of the authorisation of the Fund by the Central Bank.

## **MANAGEMENT AND DEPOSITARY AGREEMENTS**

- 10. (1) The terms of any agreement entered into by the ICAV appointing any person to act as Manager or Depositary of the ICAV (other than the original agreements appointing the first Manager or first Depositary entered into prior to the first issue of Participating Shares other than to the subscribers of the Instrument of Incorporation), and any variations made after the first issue of Participating Shares to any such agreement then in force, shall be subject to approval by a resolution passed by the majority of holders for the time being of the Participating Shares (or of any class thereof as the case may require) present or represented by proxy at a meeting of the holders of such Participating Shares.
- (2) Approval of an agreement referred to in paragraph (1) of this Article shall not be required where either:
  - (a) the terms of any new agreement entered into for the appointment of a new Manager or Depositary do not differ materially from those in

force with the former Manager or Depositary on termination of its appointment; or

- (b) the agreement relates to a variation to an existing agreement and the ICAV, the Manager and the Depositary each certify that any such variation:
  - (i) is required only to enable the affairs of the ICAV to be more conveniently or economically managed or otherwise to benefit the holders of Participating Shares;
  - (i) will not prejudice the interests of the then existing holders of Participating Shares or any of them;
  - (ii) will not alter the fundamental provisions or objects of the agreement; and
  - (iii) will not operate to release the Manager or the Depositary from any responsibility to the ICAV.
- (3) The ICAV shall establish and implement procedures that are to be followed for the purpose of replacing the Depositary, the Manager or the Administrator. The procedures for the replacement of the Depositary, Manager or the Administrator shall ensure the protection of Shareholders in the event of such replacement and shall be approved by the Board and shall be in accordance with the requirements of the Central Bank.
- (4) Any agreements between the ICAV and a Manager and Depositary and any amendments or variation thereto shall be in accordance with the requirements of the UCITS Rules.

### **SHARE CAPITAL**

- 11. (1) The share capital of the ICAV is €40,000, divided into 40,000 Subscriber Shares of one euro (€1.00) each and 500,000,000,000 Participating Shares of no par value, each having the rights provided for and as hereinafter appearing.
- (2) The total amount of the paid up share capital of the ICAV shall at all times be equal to the Net Asset Value of the ICAV.
- 12. (1) Subscriber Shares shall only be issued at par value.
- (2) Subscriber Shares shall have no entitlement to:
  - (a) a share of the Investments or relevant profits of the ICAV.
  - (b) receive a distribution from the ICAV.
  - (c) vote at general meetings of the ICAV save as provided for in this Instrument of Incorporation.

- (3) Any Subscriber Shares which are not for the time being owned by J O Hambro Capital Management Limited or its nominees shall be subject to requisition under Article 38 hereof.
  - (4) The Subscriber Shares may be redeemed at the option of the Directors at the value of the amount paid up.
13. (1) The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to allot Participating Shares in the ICAV pursuant to Article 38 of the Act. The maximum amount of relevant securities which may be allotted under the authority hereby conferred shall be the number of authorised but unissued relevant securities in the capital of the ICAV from time to time and for the time being.
- (2) The ICAV may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry, and the Directors may allot relevant securities in pursuance of such offer or agreement, notwithstanding that the authority hereby conferred has expired.
  - (3) Subject to the foregoing, the Shares shall be at the disposal of the Directors who may offer, allot or otherwise deal with or dispose of them to such persons at such times and on such terms as they think proper.
  - (4) The Directors may in their absolute discretion refuse to accept any application for Participating Shares in the ICAV or accept any application in whole or in part. In the case of any such refusal the relevant subscription monies shall be returned to the applicant without interest and at his own risk.
  - (5) The ICAV may on any issue of Participating Shares pay such brokerage as may be lawful.
  - (6) The Participating Shares of each Fund may be designated by the Directors as different types of Participating Shares within that particular Fund. The Directors have power to issue different types of Participating Shares in each Fund to investors and may create hedged and unhedged share types within a Fund. Details of the different types of Participating Shares to be created in a Fund must be notified in advance to the Central Bank.
  - (7) The Directors may in their absolute discretion differentiate between the different types of Participating Shares including, without limitation, as regards the level of management fees payable in respect of each. In addition, each type of Participating Share within a Fund may incur different preliminary and redemption charges and may have a different distribution policy or currency of designation.
  - (8) Where a Shareholder switches from one Fund to another, Participating Shares will be issued as the relevant type of Participating Shares within that Fund.

No person shall be recognised by the ICAV as holding any Share upon any 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 Share, or (except only as by this



Instrument of Incorporation otherwise provided or as by law required) any other right in respect of any Share except an absolute right to the entirety thereof in the registered holder.

### **ALLOTMENT OF PARTICIPATING SHARES**

14. (1) Subject as hereinafter provided, the Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to allot Participating Shares in the ICAV within the meaning of section 38 of the Act.
- (2) Subject to Article 15(3) and except as otherwise agreed by the Directors and subject as hereinafter provided, the ICAV on receipt by it (or its authorised agents) up to the relevant time as may be set out in an applicable Supplement of:
- (ii) an application for Participating Shares in such form as the Directors may from time to time determine; and
  - (iii) such relevant declarations as to status, residence and otherwise as the Directors may from time to time require;
- may allot such Participating Shares on the next following Dealing Day for each such Participating Share at the Subscription Price calculated by reference to that Dealing Day in accordance with Article 15. If the application and/or declarations referred to in paragraph (2)(ii) and (iii) of this Article are received after the relevant cut-off time for subscription requests (as set out in the applicable Supplement) the ICAV may treat such application as having been received on the next Business Day and may (if that Business Day is a Dealing Day) defer the allotment of such Participating Share until the next following Dealing Day after receipt of the application and/or declarations referred to in paragraph (2)(ii) and (iii) of this Article and the Subscription Price shall be determined accordingly as herein provided.
- (3) Subject as provided in Article 5(a), an application for Participating Shares shall not, without the consent of the ICAV be capable of being withdrawn once given.

15.

- (1) Without prejudice to the provisions of Article [15(3)] the allotment of Participating Shares shall (unless the Directors otherwise agree) be made on condition that (unless settlement has already been effected) the applicant shall effect settlement within such period and in such currency or currencies as the Directors may determine to be appropriate to receive subscriptions and in the manner required by the Directors and that 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 thereof (as conclusively determined by the Directors) and in the event of the applicant failing to make settlement within three Business Days of the allotment, such (provisional) allotment may be cancelled absolutely and the application refused or alternatively the application may be treated as an application for such number of Participating

Shares as may be purchased or subscribed for with such payment as has been made.

- (2) The ICAV may (at the option of the Directors) satisfy any application for the allotment of Participating Shares by procuring the transfer to the applicant of fully-paid Participating Shares at a price per share equivalent to the relevant Subscription Price per share as determined hereunder. In any such case, references in this Instrument of Incorporation to allotting Participating Shares shall where appropriate be taken as references to procuring the transfer of Participating Shares.
- (3) The terms on which and the price per Participating Share at which the first allotment of Participating Shares of any class (other than to the subscribers of the Instrument of Incorporation) shall be effected and the time of such issue shall be determined by the Directors.
- (4) Any subsequent allotment of Participating Shares of any class shall be made on any Dealing Day at the Subscription Price per Participating Share of the relevant class as adjusted, being a sum not less than the Redemption Price per Participating Share of the relevant class on the same Dealing Day and not more than a sum calculated by:-
  - (a) ascertaining the Net Asset Value of the Fund to which the Participating Shares or, if relevant, that portion of the Fund to which Participating Shares of a particular type are attributable in either case, (the **“Appropriate Fund”**);
  - (b) dividing the aggregate of the amount calculated under (a) above by the number of Participating Shares of the relevant class then in issue; and
  - (c) rounding the resulting amount to three decimal places.

(d) The amount payable may be increased by:

  - (i) adding thereto a subscription charge of an amount which shall be determined by the Directors but which shall not exceed 5% of the relevant Subscription Price (without taking into account such subscription charge); and
  - (ii) at the discretion of Directors in the case of any one or more subscribing investor, adding thereto such sum as the Directors may consider appropriate to protect the interests of all Shareholders against the dilution in value of the Appropriate Fund on account of the costs associated with the acquisition of assets.
- (5) Any subscription charge made pursuant to paragraph 15(4)(d)(i) of this Article shall be allowable by the ICAV to or for the benefit of the Manager or such of its agents as the Manager may direct and the Directors may differentiate between any applicants and between classes of Participating Shares (and types of Shares within that class) as to the amount of such subscription charge within the permitted limit.

- (6) A swing-pricing mechanism to counter the dilution of a Fund's assets and protect Shareholders from the impact of transaction costs arising from subscription and redemption activity may also be employed by the ICAV and/or one or more Funds, the details of which will be set out in the Prospectus or applicable Supplement.
- (7) If the Directors and the Depositary shall be satisfied that the terms of any exchange shall not be such as are likely to result in any material prejudice to existing Shareholders, the Directors may in their absolute discretion allot Participating Shares on terms providing for settlement to be made by the vesting in the Depositary on behalf of the ICAV of any securities, bonds or other assets of whatsoever nature and wheresoever situate that may be acquired by the ICAV in conformity with the UCITS Rules and the investment policy of the ICAV as determined from time to time by the Directors, and in connection therewith the following provisions shall apply:
- (a) for the avoidance of doubt, in determining the number of Participating Shares to be issued in exchange for the vesting in the Depositary on behalf of the ICAV of securities, bonds or other assets, the Subscription Price for such Participating Shares shall be determined in accordance with paragraph 15(4) of this Article;
  - (b) the number of Participating Shares to be allotted shall be not more than that number which would have fallen to be allotted for settlement in cash against the payment of a sum equal to the value at the Valuation Point for the relevant Dealing Day of the securities, bonds or other assets, as the case may be, to be vested in the Depositary on behalf of the ICAV as determined by the Directors in accordance with paragraph (d) below;
  - (c) the Directors may provide that the whole or any part of the Duties and Charges arising in connection with the vesting of the securities, bonds or other assets in the Depositary on behalf of the ICAV shall be paid by the ICAV or by the person to whom the Participating Shares are to be allotted or partly by the ICAV and partly by such person;
  - (d) the value of the securities, bonds or other assets to be vested in the Depositary on behalf of the ICAV shall be determined by the Directors on the same basis as that provided for in Article 21 hereof; and
  - (e) the Directors may require that the person to whom the Participating Shares are to be allotted shall warrant to the ICAV that the securities, bonds or other assets, as the case may be, to be vested in the Depositary on behalf of the ICAV are the absolute beneficial property of that person and are not the subject of any assignment, charge, lien, encumbrance, equity, licence, user or other agreement, right or claim whatsoever and all of the same are valid, subsisting and not subject to revocation or cancellation. The Directors shall further require that person to deliver to the Depositary or its nominee, bonds or other assets title to which is capable of transfer by delivery and otherwise to execute such documents and take such other steps (or procure the

necessary parties to do so) as shall be required by the Directors for vesting the securities, bonds or other assets in the Depositary on behalf of the ICAV. Such securities, bonds or other assets so accepted must be consistent with the investment objective and policy of the relevant Fund.

- (8) The following provisions shall apply in connection with the issue of Participating Shares pursuant to paragraphs 15(4) – 15(7) of this Article;
- (a) no Participating Shares shall be allotted on a Dealing Day (except those for which applications had been previously received and accepted by the ICAV) during any periods when the issue or the redemption of Participating Shares is suspended pursuant to Article 22 hereof. Unless withdrawn prior to the expiry of the period of suspension referred to in the preceding sentence, applications will be considered on the Dealing Day immediately following the day on which such suspension is lifted. Any such withdrawal shall be made in writing and shall not be effective until it has actually been received by the ICAV (or its authorised agent).
  - (b) the Directors may issue Participating Shares on terms that the person to whom they are issued shall bear any Duties and Charges which may be incurred outside Ireland.
  - (c) where any subscription moneys are not an exact multiple of the Subscription Price per Participating Share of the class applied for a fraction of a Participating Share may be issued at the discretion of the Directors up to three decimal places;
  - (d) the Directors shall have power to impose such restrictions as they may think necessary for the purpose of ensuring that save as permitted by any relevant foreign law no Participating Shares in the ICAV are acquired or held by any person in breach of the laws or requirements of any country or governmental authority;
  - (e) for the purposes hereof Participating Shares which have been allotted shall be deemed to come into issue at the Close of Business on the relevant Subscription Day in respect of such allotment.

## **REALISATION OF PARTICIPATING SHARES**

16. (1) Subject to the provisions of the Act and the UCITS Rules and as otherwise hereinafter provided and except as otherwise agreed by the Directors, the ICAV, on receipt by it (or one of its authorised agents) up to the relevant time as may be set out in an applicable Prospectus or the applicable Supplement of :
- (i) a request in such form as the Directors may from time to time determine (hereinafter in this Article called a **“Realisation Request”**) for the redemption of all or any portion of the Participating Shares of a class held by a Shareholder (hereinafter in this Article called the **“Applicant”**); and

- (ii) such evidence as to title to the Participating Shares to be redeemed as the Directors may have made available to the Applicant upon his acquisition of the relevant Participating Shares to be redeemed;

shall redeem such Participating Shares on the next following Dealing Day at the Redemption Price for each such Participating Share calculated on such Dealing Day in accordance with Article 17 hereof or procure the purchase thereof at not less than the Redemption Price for each such Share as aforesaid provided that:-

- (a) Where a Realisation Request is received after the relevant cut-off time for realisation requests (as set out in the Prospectus or the applicable Supplement), the ICAV may treat such request as having been received in respect of the next following Dealing Day and the Redemption Price shall be determined accordingly as herein provided.
- (b) At the request of the Applicant the Directors may but shall not be bound to redeem such Participating Shares on the next Dealing Day.
- (c)(i) Subject as provided in sub-paragraph 16(d) hereof, in the event that evidence as to title is not received by the appropriate notice period for such Realisation Request as referred to in Article 16(1) the Directors may proceed to redeem or procure the purchase of the Participating Shares comprised in the Realisation Request on the next following Dealing Day, but settlement of the aggregate of the Redemption Price for all such Participating Shares (hereinafter in this Article called the **“Proceeds”**) shall not be made until such time as the evidence as aforesaid is received by the ICAV or one of its authorised agents.
- (ii) If settlement is postponed pursuant to sub-paragraph 16(i) above the Proceeds will be deposited by the ICAV in a bank for payment to the Applicant against surrender of the Contract Note or other evidence as to title representing the Participating Shares previously held by such person or the furnishing of such other evidence as to title as the Directors may require.
- (iii) Upon the deposit of the Proceeds in a bank, pursuant to sub-paragraph 5(a)(ii) above the Applicant shall have no further interest in any of the Participating Shares comprised in the Realisation Request or any claim against the ICAV in respect thereof except the right to receive the Proceeds so deposited (without interest) upon surrender of the Contract Note or other evidence as to title.
- (d) The Directors may at their option dispense with the production of any Contract Note or other evidence as to title which shall have become defaced lost or destroyed upon compliance by the Applicant with the like requirements to those applying in the case of an application by him

for replacement of a defaced lost or destroyed Contract Note or other evidence as to title under Article 32.

- (2) Subject as hereinafter provided, the Applicant shall not without the consent of the ICAV be entitled to withdraw his Realisation Request once given or his Contract Note or other evidence as to title.
- (3) If on any Dealing Day the issue, conversion and redemption of Participating Shares are suspended pursuant to Article 22 hereof the right of the Applicant to have such Participating Shares redeemed pursuant to paragraph (1) of this Article 16 on that Dealing Day shall be similarly suspended and on any Dealing Day on which the Applicant's right to have them redeemed is so suspended he may withdraw his Realisation Request and his Contract Note or other evidence as to title. Any such withdrawal under the provisions of this Article shall be made in writing and shall not be effective until it has actually been received by the ICAV (or its authorised agent). If no such withdrawal is made, the day on which the redemption of such Participating Shares shall be effected shall be the Dealing Day immediately following the day on which such suspension is lifted.
- (4)
  - (a) The redemption of Participating Shares shall be made on terms that (subject to any requisite official consents first having been obtained) the ICAV or its authorised agent shall effect settlement of the Proceeds:
    - (i) in the currency in which the relevant class of Participating Shares is designated unless the Directors otherwise determine in any particular case or generally in relation to Participating Shares of any class;
    - (ii) within 5 days of the relevant Dealing Day on which the redemption took place; and
    - (iii) in accordance with any payment instructions given by the Applicant to the ICAV or its authorised agent at the time of submitting the Realisation Request provided that the Directors are satisfied that there is no practical or legal impediment to the implementation of such instructions. If the Directors are not so satisfied or no payment instructions have been given as aforesaid, settlement shall be effected (subject to any requisite official consents first having been obtained) either by cheque or in such other manner as the Directors may deem appropriate.
  - (b) The ICAV shall not be liable for any loss or damage suffered or incurred by any Applicant or any other person as a result of or arising out of late settlement howsoever such loss or damage may arise.
- (5) Unless a lower number of Participating Shares is specified in the Realisation Request, the Realisation Request will be taken to apply to all the Participating Shares held by the Applicant or represented by the appropriate Contract Note.

- (6) On the redemption of part only of the Participating Shares referred to in any Contract Note the Directors shall procure the issue of a further Contract Note in respect of such Participating Shares or such other evidence as to title as the Applicant may agree with the Directors to be sent to the Applicant.
- (7)
  - (a) Subject to the provisions of this paragraph but notwithstanding any provision of this Instrument of Incorporation, the ICAV may limit the number of Participating Shares to be redeemed on any one Dealing Day to 10% of the Net Asset Value of the applicable Fund.
  - (b) If the ICAV shall receive requests for redemption on any Dealing Day of Participating Shares in respect of a Fund of a value greater than that provided for in paragraph (7)(a) of this Article, it may scale down the number to be redeemed in response to each request to such extent as may be necessary to ensure that such limit is not exceeded and shall carry forward for redemption or purchase on the next Dealing Day the balance of each request and so on to each succeeding Dealing Day until each request has been complied with in full.
  - (c) Any requests for redemption which have been carried forward from an earlier Dealing Day pursuant to paragraph (7)(b) of this Article shall (subject to the foregoing limits) be complied with on a pro rata basis with later requests on each subsequent Dealing Day until all of the Participating Shares to which the original request related have been redeemed.
- (8) The Redemption Price may be satisfied by the ICAV paying cash or, provided that the Directors or the Manager are satisfied that the terms of any exchange shall not be such as are likely to result in any material prejudice to any remaining Shareholders and with the agreement of the relevant Shareholder, making an in specie distribution, on such terms and conditions as the Directors and the Manager may specify, to such Shareholder of Investments equalling the aggregate Redemption Price (or together with any such cash payment when aggregated with the value of the Investments being distributed as are equal to such Redemption Price).
- (9) Where redemption of Participating Shares is to be satisfied by an in specie distribution of Investments held by the ICAV, the Depositary shall transfer such Investments as the Manager, shall direct to the Shareholder as soon as practicable after the relevant Dealing Day. All costs and risks of such distribution shall be borne by such Shareholders.
- (10) Shares redeemed shall be deemed to cease to be in issue at the Close of Business on the relevant Dealing Day in respect of the redemption and such redeemed Shares shall be cancelled.

#### **REDEMPTION PRICE**

- 17. (1) The redemption of Participating Shares of any class shall be made at the Redemption Price per Participating Share of that class as adjusted, calculated by the Directors and being not more than the Subscription Price for a

Participating Share of the same class calculated by reference to the same Dealing Day pursuant to Article 5(c)(3) hereof and not less than a sum calculated in the following manner:

- (a) ascertaining the Net Asset Value of the Fund to which the Participating Shares or, if relevant, that portion of the Fund to which Participating Shares of a particular type are attributable in either case, (the **“Appropriate Fund”**);
  - (b) dividing the aggregate of the amount calculated under 5(a) above by the number of Participating Shares of the relevant class then in issue; and
  - (c) rounding the resulting amount to three decimal places.
  - (d) The amount payable may be reduced by:
    - (i) deducting therefrom a redemption charge which shall be determined by the Directors but which shall not exceed 2% of the relevant Redemption Price (without taking into account such redemption charge). The Directors shall not increase the maximum charge relating to the redemption or repurchase of Participating Shares 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 herein. In the event of an increase in the redemption or repurchase charge a reasonable notification period shall be provided to enable Shareholders redeem their Participating Shares prior to the implementation of the increase.
    - (ii) at the discretion of Directors in the case of any one or more redeeming Shareholder, deducting therefrom such sum as the Directors may consider appropriate to protect the interests of all Shareholders against dilution in value of the Appropriate Fund on account of the costs associated with the realisation of assets.
- (2) A swing-pricing mechanism to counter the dilution of a Fund's assets and protect Shareholders from the impact of transaction costs arising from subscription and redemption activity may also be employed by the ICAV and/or one or more Funds, the details of which will be set out in the Prospectus or applicable Supplement.
- (3) Upon the redemption of a Participating Share being effected pursuant to this Instrument of Incorporation the Shareholder shall cease to be entitled to any rights in respect thereof and accordingly his name shall be removed from the Register with respect thereto and the Participating Share shall be cancelled and the amount of the ICAV's issued share capital shall be reduced accordingly. The Participating Share shall be available for re-issue and until re-issue shall form part of the unissued share capital of the ICAV.



- (4) Any redemption charge made pursuant to paragraph 17(1)(d)(i) of this Instrument shall be allowable by the ICAV to or for the benefit of the Manager or such of its agents as the Manager may direct and the Directors may differentiate between any Shareholders and between classes of Participating Shares as to the amount of such redemption charge within the permitted limit.
- (5) If (i) the Net Asset Value of a Fund either does not grow, or falls, to a level that in the absolute discretion of the Directors makes the Fund cease to be economically viable; or (ii) for any other reason that the Directors determine, in their absolute discretion, is in the best interests of the Shareholders of a particular Fund, the Directors may by twenty-eight days' notice to holders of Participating Shares of the class attributable to such Fund redeem on the Dealing Day nominated in such notice, at the Price per Participating Share of the class concerned, all (but not some) of the Participating Shares of the class concerned not previously redeemed.
- (6) In the event of any redemption as set out in paragraph (4) of this Article taking place, the provisions of Article 16(b)(b) and Article 15(4) shall apply as if such redemption had been made at the request of the holders of the Participating Shares in question.
- (7) With the sanction of a Special Resolution of the Shareholders of any Fund, the Directors may terminate such Fund and shall compulsorily redeem all (but not some) of the Participating Shares of that Fund at the relevant Redemption Price on the Dealing Day next following the passing of such Special Resolution or on such Dealing Day as the Directors may specify and notify to the Shareholders.
- (8) If all the Participating Shares of any class are to be redeemed or repurchased pursuant to Article 17(6) the Directors may, with the sanction of a Special Resolution of the holders of Participating Shares of that Fund, divide amongst the said holders in specie all or any part of the Assets of the relevant Fund. For the avoidance of doubt, if the Special Resolution above is passed, each said holder is entitled to elect on winding-up, whether or not he wishes to receive a distribution in specie or a cash distribution. In the absence of a holder of Participating Shares electing to receive a distribution in specie, such holder shall receive a cash distribution payment.
- (9) If any Participating Shares of any Fund are to be redeemed or repurchased as aforesaid and the whole or any part of the business or property of the ICAV attributable to the relevant Fund or any of the Assets of that Fund are proposed to be transferred or sold to another company or another Fund (hereinafter called "the Transferee") the Directors may, with the sanction of a Special Resolution of the holders of Participating Shares of that Fund conferring either a general authority on the Directors or an authority in respect of any particular arrangement receive in compensation or part compensation for the transfer or sale shares, units, policies or other like interest or property in or of the Transferee for distribution among the said holders, or may enter into any other arrangement whereby the said holders 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. For the purpose of the foregoing "company" shall include a unit trust scheme.

### **QUALIFIED HOLDERS**

18. (1) If it shall come to the notice of the Directors that any Participating Shares are owned directly or beneficially by any person:
- (a) in breach of any law or requirement of any country or governmental authority;
  - (b) who belongs to or is comprised in any class of persons from time to time for the purposes of this Article determined by the Directors and the Depositary; or
  - (c) such that the status, standing or tax residence of the ICAV is or may be prejudiced or the ICAV may suffer any pecuniary disadvantage which it would not otherwise have suffered,

then the ICAV may give notice to such person requiring him to transfer such Participating Shares to a person who is qualified or entitled to own the same or give a request in writing for the redemption of such Participating Shares in accordance with Article 16(1). If any person upon whom such a notice is served pursuant to this paragraph does not within thirty days after service of such notice transfer his Participating Shares or give an irrevocable request in writing to redeem his Participating Shares or establish to the satisfaction of the ICAV (whose judgment shall be final and binding) that he is qualified, entitled and permitted to own the Participating Shares, he shall be deemed upon the expiration of thirty days to have given a request in writing for the redemption of all his Participating Shares pursuant to Article 16(1) whereupon he shall be bound forthwith to deliver to the ICAV (or its duly authorised agent) the Contract Note in respect of such Participating Shares or such other evidence as to title as the Directors may require.

- (2) A person who becomes aware that he is holding or owning Participating Shares within any of the categories referred to in paragraph (1) above shall forthwith unless he has already received a notice pursuant to paragraph (1) above either transfer all his Participating Shares to a person qualified or permitted to own the same or give a request in writing for the redemption of all his Participating Shares pursuant to Article 16(1).
- (3) The proceeds of any redemption effected pursuant to this Article will be deposited by the ICAV in a bank for payment to any such person against surrender of the Contract Note representing the Participating Shares previously held by such person or the furnishing of such other evidence as to title as the Directors may require. Upon the deposit of such proceeds of redemption as aforesaid, such person shall have no further interest in such Participating Shares or any claim against the ICAV in respect thereof except the right to receive the proceeds of redemption so deposited (without interest) upon surrender of the said Contract Note or other evidence as to title.

- (4) The exercise by the ICAV of the power conferred by this Article shall not be questioned or invalidated in any case on the ground that there was insufficient evidence of ownership of Participating Shares by any person or that the true ownership of any Participating Shares was otherwise than appeared to the ICAV at the relevant date provided the said powers shall have been exercised in good faith.
- (5) The Directors may at any time and from time to time call upon any holder of Participating Shares by notice in writing to provide the Directors with such information and evidence as they shall require upon any matter connected with or in relation to such holder of Participating Shares in order to satisfy themselves that Participating Shares are not owned directly or beneficially by any person:
- (a) in breach of any law or requirement of any country or governmental authority;
  - (d) who belongs to or is comprised in any class of persons from time to time for the purposes of this Article determined by the Directors; or
  - (e) such that the status, standing or tax residence of the ICAV is or may be prejudiced or the ICAV may suffer any pecuniary disadvantage which it would not otherwise have suffered as a result of that person continuing to own Participating Shares.
- (6) If such information and evidence is not so provided within a reasonable time (not being more than five days after service of the notice requiring the same) the Directors shall forthwith serve such holder of Participating Shares with a further notice calling upon him, within seven days after service of such further notice, to transfer his Participating Shares or to request the redemption of such Participating Shares in accordance with Article 18(1) and, failing action by him within such seven days to implement that notice, he shall be deemed to have given a request in writing for the redemption of all his Participating Shares in accordance with Article 18(1), whereupon he shall be bound forthwith to deliver to the ICAV or one of its duly authorised agents the Contract Note for his Participating Shares or such other evidence as to title as the Directors may require and until such time as the Contract Note or such other evidence as to title as the Directors may require as aforesaid is received by the ICAV or one of its duly authorised agents the proceeds of any such redemption shall be deposited by the ICAV in a bank in accordance with Article 17(c)(3) hereof.
- (7) If the ICAV becomes liable to account for tax in any jurisdiction in the event that a holder or beneficial owner of a Participating Share were to receive a distribution in respect of his/her Participating Shares or to dispose (or be deemed to have disposed) of his/her Participating Shares in any way (a “**Chargeable Event**”), the Directors or their agent shall be entitled to deduct from the payment arising on a Chargeable Event an amount equal to the appropriate tax and/or where applicable, to appropriate, cancel or compulsorily repurchase such number of Participating Shares held by the holder or such beneficial owner of the Participating Shares as are required to

meet the amount of tax. The relevant holder of Participating Shares shall indemnify and keep the ICAV indemnified against loss arising to the ICAV by reason of the ICAV becoming liable to account for tax in any jurisdiction on the happening of a Chargeable Event if no such deduction, appropriation, cancellation or compulsory repurchase has been made.

## CONVERSIONS

19. Subject as herein provided a holder of Participating Shares of any Fund (hereinafter in this Article called the “**Original Fund**”) shall have the right to convert all or any portion of such Participating Shares comprised in one or more Written Confirmations of Entry into Participating Shares of another Fund (hereinafter in this Article called the “**New Fund**”) either existing or agreed by the Directors to be brought into existence on terms hereinafter appearing:-
- (1) The right of conversion is exercisable by the said holder (hereinafter in this Article called the “**Applicant**”) giving to the ICAV (or one of its authorised agents) a notice (hereinafter in this Article called a “**Conversion Notice**”) in such form as the Directors may from time to time determine.
  - (2) Subject to the receipt by the ICAV (or one of its authorised agents) of a Conversion Notice 10 Business Days before Dealing Day on which the conversion is to be effected (or such other time as the Directors may determine either generally or in relation to a particular Fund or in any specific case) the conversion of the Participating Shares comprised in the Conversion Notice shall be effected on the next following Dealing Day.
  - (3) The Applicant shall not without the consent of the ICAV be entitled to withdraw a Conversion Notice given in accordance with this Article except in any circumstances in which if it were a Realisation Request he would be entitled to withdraw it in accordance with Article 16(d)(3) hereof and any such withdrawal shall only be effective if made in compliance with the same requirements as to writing and actual receipt as are imposed by the said Article 16(d)(3).
  - (4) Conversion of the Participating Shares comprised in the Conversion Notice shall be effected on the relevant Dealing Day by the redemption of the Participating Shares of the Original Fund and the allotment and issue of Participating Shares of the New Fund in proportion to (or as nearly as possible in proportion to) the holding of the Participating Shares of the Original Fund and where conversion is effected in accordance with this Article the number of Participating Shares of the New Fund to be allotted and issued shall be determined in accordance with the following provisions of this Article provided that the right of conversion shall be conditional upon the ICAV having sufficient available unissued share capital to enable the conversion to be implemented in the manner determined by the Directors as aforesaid.
  - (5) The number of Participating Shares of the New Fund to be allotted and issued on conversion shall be determined by the Directors as nearly as possible in accordance with the following formula:

$$\text{NSH} = \frac{\text{OSH} \times \text{RP}}{\text{SP}}$$

where

NSH is the number of Participating Shares of the New Fund;

OSH is the number of Participating Shares of the Original Fund specified in the Conversion Notice;

RP is the Redemption Price of a Participating Share of the Original Fund calculated in accordance with Article 17(1) hereof by reference to the relevant Dealing Day;

SP is the Subscription Price of a Participating Share of the New Fund calculated in accordance with Article 14 hereof by reference to the relevant Dealing Day.

- (6) Fractions of Participating Shares of the New Fund may not be allotted on conversion and any monies which would provide an entitlement to only a fraction of a Participating Share of the New Fund shall be returned to the Applicant.
- (7) On the relevant Business Day the Manager, shall debit the Fund attributable to Participating Shares of the Original Fund with an amount equal to OSH x RP and shall credit the Fund attributable to Participating Shares of the New Fund with the appropriate amount in the currency in which the New Fund is designated.
- (8) No Contract Note in respect of Participating Shares of the New Fund allotted on conversion shall be issued until the ICAV (or its authorised agent) has received the Contract Note representing the relevant number of Participating Shares of the Original Fund so converted with the Conversion Notice on the reverse thereof duly completed and signed or shall have received such other evidence as to title as the Directors may require together with a Conversion Notice in a form acceptable to the Directors.
- (9) Where a Shareholder converts from the Original Fund to the New Fund and the Participating Shares in the New Fund are designated as Shares of different types in accordance with Article 13(6), Participating Shares in the New Fund will be issued as Shares of the relevant type, as applicable (whether or not the Participating Shares in the Original Fund were designated as Shares of different types in accordance with Article 13(6)). Where the Participating Shares of the Original Fund are designated as Shares of different types in accordance with Article 13(6), and the Shareholder converts to a New Fund (the Participating Shares of which are not designated as Shares of different types in accordance with Article 13(6)) the Participating Shares will be issued of the single type in the New Fund. Shareholders may not convert from one type to another within the same Fund.

## **CLASSES OF PARTICIPATING SHARES**

20. (1) Each Participating Share shall be issued as a member of a particular Fund. Each Fund shall be designated in such currency as the Directors may determine.

Provided that the directors of the ICAV shall have discretion, subject to the requirements of the Central Bank, to change the name of any Fund without the requirement of Shareholder approval.

- (2) The Directors shall obtain the prior approval of the Central Bank before establishing any Fund in addition to those specified in Article 20).
- (3) The Directors shall establish and maintain separate Funds for each class of Participating Shares and shall have power by resolution of the Board of Directors to adopt for any Fund such investment restrictions as they shall in their discretion deem necessary or appropriate.
- (4) The Directors shall establish and maintain separate records and accounts in respect of each Fund.
- (5) The following provisions shall apply to each Fund:
- (a) the proceeds from the allotment and issue of each Fund shall be applied in the books and records of the ICAV to the Fund established for Participating Shares of that Fund and the assets less the liabilities plus any income less expenditure attributable thereto shall be applied to such Fund;
  - (b) where any asset is derived from another asset (whether cash or otherwise) such derivative asset shall be applied in the books of the ICAV to the same Fund as the asset from which it was derived and on each revaluation of an asset the increase or decrease in value shall be applied to or deducted from the relevant Fund;
  - (c) the Directors shall have discretion subject to the approval of the Depositary, to determine the bases upon which any asset or liability which they do not consider attributable to a particular Fund (which in the case of a liability, without limitation, may include all operating expenses of the ICAV such as audit fees, legal fees, registration fees, the costs of publication and distribution of prospectuses and the costs of calculation and publication of share prices) shall be allocated between Funds (including conditions as to subsequent re-allocations if circumstances so require) and shall have power at any time and from time to time to vary such bases provided that the approval of the Depositary shall not be required in any case where such an asset or liability is allocated between all Funds pro rata according to the Net Asset Value of each at the time when such allocation was made; and
  - (d) save as otherwise provided herein the assets, liabilities and income of each Fund shall be applied solely in the currency or currencies or to the

type or class of investments specified by the Directors for each particular Fund and the assets so held in or for each Fund shall be applied solely in respect of Participating Shares of the class to which such Fund relates.

- (e) Subject to the approval of the Depositary, the Directors may transfer any assets to and from Funds if, as a result of a creditor proceeding against certain of the assets of the ICAV or otherwise a liability would be borne in a different manner from that in which it would have been borne under paragraph 20(c) above or in any similar circumstances.
- (6) The assets of each Fund shall belong exclusively to such Fund to which they are attributable. Such assets shall be segregated in the books and records of the ICAV from the assets of all other Funds and shall not be allocated, nor shall they be pooled with the assets of any other Fund, to discharge directly or indirectly the liabilities of or any claims against any other such Fund and shall not be available for any such purpose.

### **VALUATIONS OF FUNDS**

- 21. (1) The Net Asset Value for each Fund (or attributable to each type of Share within that Fund) shall be determined separately by reference to the Fund (or type of Share within such Fund) and to each such determination the following provisions shall apply. The Net Asset Value of the relevant Fund shall be expressed in the currency of designation of that Fund.
- (2) The Net Asset Value of each Fund shall be determined and shall be equal to the value as at the relevant Valuation Point of all the assets, less all the liabilities, of that Fund.
- (3) The assets of a Fund shall be deemed to include:
  - (a) all cash in hand, on loan or on deposit, or on call including any interest accrued thereon,
  - (c) all bills, demand notes, promissory notes and accounts receivables,
  - (d) all bonds, certificates of deposit, shares, stock, units in Collective Investment Schemes, debentures, debentures stock, subscription rights, warrants, options and other investments and securities owned and contracted for, (other than rights and securities issued by it),
  - (e) all stock and cash dividends and cash distributions which the Directors consider will be received by the ICAV in respect of the Fund but which have not yet been received by it but have been declared payable to stockholders of record on a date before the day as of which the assets are being valued,
  - (f) all interest accrued on any interest-bearing securities forming part of the Fund,

- (g) all prepaid expenses relating to that Fund and a proportion of any prepaid expenses relating to the ICAV generally, such prepaid expenses to be valued and defined from time to time by the Directors.
- (4) Subject to the Act any expense or liability of the ICAV may be amortised over such period as the Directors (with the approval of the Auditors) may determine (and the Directors may at any time and from time to time determine with the approval of the Auditors to lengthen or shorten any such period), and the unamortised amount thereof at any time shall also be deemed to be an asset of the ICAV.
- (5) Assets shall be valued as follows:
  - (a) Deposits shall be valued at their principal amount plus accrued interest from the date on which the same was acquired or made;
  - (b) Bonds, notes, treasury bills, debenture stocks, certificates of deposit, bank acceptances, trade bills and similar assets shall be valued at the close of business price of the preceding Business Day in each case on the market on which these assets are traded or admitted for trading (being the market which is the sole or in the opinion of the Directors the principal market on which the assets in question are quoted or dealt in) as certified to the Directors by a competent person accustomed to deal on such market approved for the purpose by the Depositary;
  - (c) Exchange traded futures and options contracts (including index futures) shall be valued at the settlement price as determined by the market in question. If such market price is not available, the value shall be the probable realisation value estimated with care and in good faith by the Directors or such other competent person approved for the purpose by the Depositary. Off-exchange derivative contracts shall be valued by the counterparty at least daily. The valuation must be approved or verified weekly by a third party who is independent of the counterparty and who is approved for the purpose by the Depositary. Forward exchange contracts shall be valued by reference to the price at which a new forward contract of the same size and maturity could be undertaken;
  - (d) Save as otherwise herein provided investments or assets listed, quoted or dealt in on a Recognised Market shall be valued at the Valuation Point or, if the Recognised Market on which such investment or asset is traded or admitted for trading (being the Recognised Market which is the sole, or in the opinion of the Directors, the principal, Recognised Market on which the investment in question is listed, quoted or dealt in) is closed at the Valuation Point, then such investments or assets will be valued at the last traded price at the close of the last regular trading session of that Recognised Market. If such dealing price for the assets is not representative in the sole opinion of the Directors of the value of the assets, the value will be the probable realisation value, estimated with care and in good faith by such competent person as may be



appointed by the Directors and approved for the purpose by the Depositary;

- (e) At any time when the dealing prices are not available in respect of assets listed, quoted or dealt in on a Recognised Market in each case on the Recognised Market on which these assets are traded or admitted for trading (being the Recognised Market which is the sole or in the opinion of the Directors the principal Recognised Market on which the investment in question is listed, quoted or dealt in), the value of the assets will be the probable realisation value estimated with care and in good faith by such competent person as may be appointed by the Directors and approved for the purpose by the Depositary;
  - (f) Any investments or assets not listed, quoted or dealt in on a Recognised Market shall, be valued at the probable realisation value as determined with care and in good faith by such competent persons as may be appointed by the Directors and approved for the purpose by the Depositary;
  - (g) Securities listed or traded on a Recognised Market but acquired or traded at a premium or at a discount outside or off the relevant market may be valued, taking into account the level of premium or discount at the date of the valuation. The Depositary must ensure that the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security;
  - (h) Cash shall be valued at face value (together with accrued interest to the relevant Valuation Date) unless, in the opinion of the Directors, any adjustment should be made to reflect the value thereof in the context of currency, marketability, dealing costs and/or such other considerations as are deemed relevant;
  - (i) The value of units or shares or other similar participation in any Collective Investment Scheme shall be valued at the latest bid price or the last available net asset value as published by the Collective Investment Scheme; and
  - (j) Notwithstanding the foregoing the Directors may permit some other method of valuation to be used for any particular asset if they consider that such valuation better reflects the fair value of that asset, such other method to be approved by the Depositary and the rationale/methodologies used are clearly documented.
- (6) Currencies or values in currencies other than in the currency of designation of a particular Fund shall unless the Directors determine otherwise be converted or translated at the rate which the Manager after consulting with or in accordance with, the method approved by the Depositary may consider appropriate having regard (inter alia) to any premium or discount which may be relevant and to costs of exchange into the currency of designation of that Fund.

- (7) For the purpose of valuing the ICAV's assets as aforesaid the Directors may rely upon the opinions of any person(s) who appear to them to be competent to value assets by reason of any appropriate professional qualification or of experience of any relevant market.
- (8) The liabilities of a Fund shall be deemed to include all liabilities (including charges incurred on the acquisition and realisation of investments and such operating expenses (referred to in 20(c) that the Directors consider to be attributable to a particular Fund, and such amount as the Directors determine to provide in respect of contingent liabilities) of whatsoever kind and nature except liabilities represented by Participating Shares in the ICAV. In determining the amount of such liabilities the Directors may calculate any liabilities on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period. Where the Directors have created different types of Participating Shares within a Fund in accordance with Article 13(6) and have determined that each type will incur different levels of fees (the details of which shall be set out in the applicable Supplement for that Fund), the Administrator shall adjust the Net Asset Value per type in order to reflect such different levels of fees payable in respect of each type.
- (9) The Net Asset Value of each Fund calculated pursuant the Instrument of Incorporation, the ICAV or by any other person authorised to give such certificate by the Directors and any such certificate shall be binding and conclusive as to the Net Asset Value of such Fund in the absence of manifest error.
- (10) Any increase or decrease in the Net Asset Value of each Fund is attributed to the different types of Participating Shares within each Fund based on their respective pro-rata closing Net Asset Values. The Net Asset Value attributed to each type is then divided by the number of Shares of the relevant type in issue to give the Net Asset Value per Share of each type of Share of that Fund.
- (11) Where different types of Participating Shares are created within a Fund and the ICAV wishes to employ financial derivative instruments at the level of each type of Share within a Fund, including, without limitation, for hedging purposes or to generate different participations, returns or capital protection in respect of each type, such transactions will be clearly attributable to a specific Share type and any costs and gains/losses of the transactions will accrue solely to the relevant type of Shares.

## **SUSPENSION OF ISSUES AND REALISATIONS**

22. (1) The Directors may at any time declare a temporary suspension of issues, redemptions and conversions of Participating Shares or of any one or more classes of Participating Shares during:
  - (a) any period when any of the principal markets or stock exchanges on which a substantial part of the investments of the relevant Fund are quoted is closed, otherwise than for ordinary holidays, or during which dealings thereon are restricted or suspended;

- (b) any period when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Directors, disposal or valuation of a substantial part of the investments of the relevant Fund is not reasonably practicable without this being seriously detrimental to the interests of the Shareholders in the relevant Fund or if in the opinion of the Directors the Net Asset Value of the relevant Fund cannot be fairly calculated;
  - (c) any breakdown in the means of communication normally employed in determining the value of the investments of the relevant Fund or when for any reason the current prices on any market of a substantial part of the investments of the relevant Fund cannot be promptly and accurately ascertained;
- (2) Any suspension shall take effect on the day on which the declaration is made and thereafter there shall be no issues, redemptions or conversions of Participating Shares of the class or classes concerned until the Directors shall declare the suspension to be at an end. The Directors shall during the period of any suspension review the reasons for the suspension and declare the suspension at an end as soon as they and the Depositary consider that the reasons or conditions giving rise to the suspension have ceased to exist and no other reasons or conditions on foot of which a suspension might be declared shall exist. Where possible, the Directors shall take all reasonable steps to bring any period of suspension to an end as soon as possible.
- (3) Any suspension shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the ICAV and as shall be in effect at the time.
- (4) To the extent not inconsistent with such official rules and regulations, the determination of the Directors pursuant to Article 5(a)(2) shall be conclusive.
- (5) Forthwith after the commencement of any suspension the Directors shall immediately and in any event within the same Business Day notify in writing the Central Bank and the competent authorities in the Member States in which the ICAV markets its Participating Shares that such a suspension has been made. As soon as may be practicable after the commencement of any suspension, the Directors shall if possible cause a notice to be placed in such publication(s) as the ICAV has caused Subscription Prices and Redemption Prices to be published in during the preceding six months stating that such suspension has been made, and at the end of any period of suspension the Directors shall cause another notice to be placed in such publication(s) stating that the period of suspension has ended.
- (6) Nothing herein shall prevent the ICAV, if the Directors (acting on the advice of the Manager) think fit, from agreeing, during the period of suspension, to issue or redeem or convert Participating Shares at a price to be calculated by reference to the first Dealing Day after the suspension has been declared to be at an end.

- (7) Issues, redemptions and conversions of Participating Shares which have been subject to a suspension shall take place after such suspension has been declared to be at an end at a price to be calculated by reference to the first Dealing Day after the suspension has been declared to be at an end.

### **CALLS ON SUBSCRIBER SHARES**

23. The Directors may from time to time make calls upon any registered holder of Subscriber Shares in respect of any moneys unpaid on his Subscriber Shares provided that (except as otherwise fixed by the conditions of application or allotment) no call on any Share shall be payable at less than fourteen days from the date fixed for the payment of the last preceding call, and each such registered holder shall (subject to being given at least fourteen days notice specifying the time or times and place of payment) pay to the ICAV at the time or times and place so specified the amount called on his Subscriber Shares. A call may be payable by instalments. A call may be revoked or postponed as the Directors may determine. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
24. The Directors may, if they think fit, receive from any registered holder of Subscriber Shares willing to advance the same all or any part of the money uncalled and unpaid upon the Subscriber Shares held by him beyond the sums actually called up thereon as a payment in advance of calls, and such payment in advance of calls shall extinguish, so far as the same shall extend, the liability upon the Subscriber Shares in respect of which it is advanced, and upon the money so received, or so much thereof as from time to time exceeds the amount of the calls then made upon the Shares in respect of which it has been received.

### **MODIFICATION OF RIGHTS**

25. Whenever the capital of the ICAV is divided into different classes of Participating Shares the special rights attached to any class may (unless otherwise provided by the terms of issue of the Participating Shares of that class) be varied or abrogated either whilst the ICAV is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three-fourths of the issued Participating Shares of the class, or with the sanction of a resolution passed at a separate meeting of the holders of the Participating Shares of the class by a majority of three-fourths of the votes cast at such a meeting, but not otherwise. To every such separate meeting all the provisions of the Act and the Instrument of Incorporation relating to the general meetings of the ICAV or to the proceedings thereat shall, *mutatis mutandis*, apply except that:
- (a) the necessary quorum shall be two persons (except where there are less than two Participating Shareholders in any class, when the quorum shall be one person) at least holding or representing by proxy one-third in nominal amount of the issued Participating Shares of the class (but so that if at any adjourned meeting of such Shareholders a quorum as above defined is not present, those Shareholders who are present shall be a quorum);
  - (b) every Shareholder of the class shall on a poll have one vote for each Participating Share of the class held by him; and

- (c) any Member of the class present in person or by proxy may demand a poll.
26. The rights conferred upon the holders of any Participating Shares or class of Participating Shares issued with preferred, deferred or other special rights shall (unless otherwise expressly provided by the conditions of issue of such Participating Shares) not be deemed to be varied by the creation or issue of further Participating Shares ranking in any respect *pari passu* therewith.

### **CONFIRMATION OF ENTRY IN THE REGISTER**

27. The ICAV shall maintain a Register in accordance with the Act. The Register shall be kept available for inspection by a person entitled to inspect it in accordance with the Act. The Register shall be kept at the Office or at such other place in Ireland as the Directors may determine, subject to the requirements of the Act. Every person whose name is entered as a Member in the Register shall be entitled without payment to a Contract Note which will constitute written confirmation from the ICAV as to his entry in the Register in respect of all his Shares of each class. It is not the intention of the Directors to issue share certificates.
28. Where a Member has transferred or redeemed part of the Shares comprised in his holding he shall be entitled to a further Contract Note for the balance without charge.
29. Every Contract Note shall be issued within two Business Days after allotment or the lodgement with the ICAV of the transfer of the Shares, unless the conditions of issue of such Shares otherwise provide, and shall specify the number and class and distinguishing number (if any) of the Shares to which it relates.
30. If at any time all the issued Shares in the ICAV (or all the issued Shares therein of a particular class) rank *pari passu* for all purposes none of these Shares need thereafter have a distinguishing number so long as they rank *pari passu* for all purposes with all Shares of the same class for the time being issued.
31. The ICAV shall not be bound to register more than four persons as the joint holders of any Share or Shares and in the case of a Share held jointly by several persons, the ICAV shall not be bound to issue more than one Contract Note therefor, and delivery of a Contract Note for a Share to one of several joint holders shall be sufficient delivery to all.
32. If a Contract Note be defaced, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity as the Directors think fit. In case of loss or destruction, the Member to whom such renewed Contract Note is given shall also bear and pay to the ICAV all expenses incidental to the investigation by the ICAV of the evidence of such loss or destruction.

### **TRANSFER OF SHARES**

33. All transfers of Shares shall be effected in accordance with the applicable requirements of the Act, by transfer in writing in any usual or common form or in any other form approved by the Directors but need not be under seal. The transferring Member remains liable to the ICAV for all related fees or costs arising from the transfer.

34. The instrument of transfer of a Share shall be signed by or on behalf of the transferor. 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.
35. The Directors may decline to register any transfer of Participating Shares in respect of which the ICAV has a lien or where the transfer would be in breach of the law or requirements mentioned in Article 15(d) hereof.
36. The Directors may also decline to recognise any transfer of Participating Shares unless the instrument of transfer is deposited at the ICAV's registered office or such other place as the Directors may reasonably require, accompanied by the Contract Note in respect of the Shares to which the transfer relates or such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer, and the instrument of transfer relates to Shares of one class only. Furthermore, the transferee must provide such information, representations and warranties to the ICAV as are required for an application for Participating Shares under Articles 14 and 14.
37. If the Directors decline to register a transfer of any Participating Share they shall, within two months after the date on which the transfer was received by the ICAV, send written notice of the refusal to register a transfer of shares to the transferee in accordance with the section 43 of the Act. The Directors shall not be obliged to give notice to any person of a refusal to register a transfer where the giving of notice would be in contravention of any provision of law (including any law that is for the time being in force in a country or territory other than Ireland).
38. The Directors may at any time direct that any Subscriber Shares not held by J O Hambro Capital Management Limited for the time being or its nominees shall be compulsorily purchased from the holder thereof at the price stated in paragraph 5(b) hereof in the following manner:
- (a) The Directors shall serve a notice (hereinafter called a **"Purchase Notice"**) upon the person appearing in the Register as the holder of the Subscriber Shares to be purchased (the **"Vendor"**) specifying the Subscriber Shares to be purchased as aforesaid, the price to be paid for such Shares, the person in whose favour such holder must execute a transfer of such Shares and the place at which the purchase price in respect of such Shares is payable. Any Purchase Notice may be served upon the Vendor by mailing the same in a pre-paid registered envelope addressed to the Vendor at his address shown in the Register. The Vendor shall thereupon forthwith be obliged to deliver to the ICAV within 10 days from the date of the Purchase Notice a duly executed transfer of the shares specified in the Purchase Notice in favour of the person specified in the Purchase Notice.
  - (b) The price payable for each Subscriber Share transferred pursuant to this Article shall be €1 less the amount remaining to be paid up thereon.
  - (c) In the event of the Vendor failing to carry out the sale of any Subscriber Shares which he shall have become bound to transfer as aforesaid, the Directors may authorise some person to execute a transfer of such Share(s) in accordance with the direction of the Directors and may give good receipt for

the purchase price of such Share, and may register the transferee or transferees as holder or holders thereof and thereupon the transferee or transferees shall become indefeasibly entitled thereto.

39. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine including pursuant to section 43(3) of the Act, PROVIDED ALWAYS that such registration shall not be suspended for more than 30 days in any year.
40. (a) 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 any case of suspected fraud) be returned to the person depositing the same.  
  
(b) No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share and the Directors shall exercise their discretion.

### **TRANSMISSION OF SHARES**

41. In case of the death of a Shareholder, the survivors or survivor where the deceased was a joint holder, and the executors or administrators of the deceased where he was a sole or only surviving holder, shall be the only persons recognised by the ICAV as having title to his interest in the Share, but nothing in this Article shall release the estate of the deceased holder whether sole or joint from any liability in respect of any Share solely or jointly held by him.
42. Any guardian of an infant Shareholder and any curator or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death or bankruptcy of a Shareholder 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 Participating Share or to make such transfer thereof as the deceased or bankrupt Shareholder could have made, but the Directors shall in either case have the same right to refuse or suspend registration as they would have had in the case of a transfer of the Share by the infant Shareholder or by the deceased or bankrupt Shareholder before the death or bankruptcy or by the Shareholder under legal disability before such disability.
43. A person becoming entitled to a Share in consequence of the death or bankruptcy of a Member shall have the right to receive and may give a discharge for all dividends and other moneys payable or other advantages due on or in respect of the Share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the Shares 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 dividends or other moneys payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.

## **VARIATION OF SHARE CAPITAL**

44. The ICAV may from time to time by Ordinary Resolution increase its capital by such number of Shares as the resolution shall prescribe.
45. In addition to any rights of the ICAV specifically conferred by this Instrument of Incorporation to reduce its share capital the ICAV may by Special Resolution from time to time reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power may with or without extinguishing or reducing liability on any of its Shares:-
- (a) cancel any paid-up share capital which is lost or which is not represented by available assets; or
  - (b) pay off any paid-up share capital which is in excess of the requirements of the ICAV.
46. The ICAV may by Ordinary Resolution from time to time alter (without reducing it) its share capital by:
- (a) consolidating and dividing all or any of its share capital into a smaller number of Shares than its existing Shares;
  - (b) sub-dividing its Shares, or any of them, into a larger number of Shares than that fixed by its Instrument of Incorporation; or
  - (c) cancelling any Shares which, at the date of the passing of the Ordinary Resolution in that behalf have not been taken, or agreed to be taken, by any person, and diminish the amount of its share capital by the amount of the Shares so cancelled.
47. All new Shares shall be subject to the provisions of this Instrument of Incorporation with reference to transfer, transmission and otherwise.

## **GENERAL MEETINGS**

48. 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.
49. The Directors may elect to dispense with the holding of an annual general meeting by giving sixty 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, the Auditor or one or more of the 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.
50. All general meetings (other than annual general meetings) shall be called Extraordinary general meetings.



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

### **NOTICES OF GENERAL MEETINGS**

52. 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 days' notice in writing, and all other extraordinary general meetings of the ICAV shall be called by not less than fourteen days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and hour of meeting, and in case of special business the general nature of such business. The notice shall be given in the manner authorised by this Instrument of Incorporation to such persons as are under this Instrument of Incorporation entitled to receive such notices from the ICAV. A notice calling an annual general meeting shall specify the meeting as such and the notice convening a meeting to pass a Special Resolution shall specify the intention to propose the resolution as such.
53. A general meeting shall, notwithstanding that it is called by shorter notice than that specified in Article 52, be deemed to have been duly called if it is so agreed by the auditors and all the Members entitled to attend and vote thereat.
54. In every notice calling a meeting of the ICAV or of any class of Members of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote instead of him and that a proxy need not also be a Member.
55. 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

### **PROCEEDINGS AT GENERAL MEETINGS**

56. 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 ICAV's statutory financial statements and other documents required by law to be annexed to the statutory financial statements and the reports of the Directors and the report of the Auditors on these statements and the review of the Members of the ICAV's affairs, to declare dividends, the election of Directors and Auditors in the place of those retiring, and subject to section 380 and 382 to 385 of the Act, the appointment or re-appointment of the Auditors and the fixing of the remuneration of the Auditors.
57. No resolution shall be passed at any general meeting as a Special Resolution of the ICAV to alter the provisions contained in the Instrument of Incorporation of the ICAV or to alter or add to the Instrument of Incorporation except with the prior written approval of the Central Bank.
58. Subject to the provisions of Article 61 in respect of adjourned meetings, for all purposes the quorum for a general meeting shall be not less than two Members present in person or by proxy and entitled to vote.

59. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine and if at such adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Members present shall be a quorum.
60. The Chairman (if any) or, if absent, the Deputy Chairman (if any) of the Board of 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 be present within five minutes after the time appointed for holding the meeting, or if neither of them be willing to act as Chairman, the Directors present shall choose some Director present to be Chairman or if no Directors be present, or if all the Directors present decline to take the chair, the Members present (in person or by proxy) shall choose some Member present to be Chairman.
61. The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more seven clear days' notice at the least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
62. 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 having the right to vote at the meeting or by a Member or Members representing not less than one tenth of the total voting rights of all the Members having the right to vote at the meeting.
63. 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.
64. If a poll is duly demanded, it shall be taken in such manner and at such place as the Chairman may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The Chairman may, in the event of a poll, appoint a scrutineer and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
65. 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.

66. A poll demanded on the election of a Chairman and a poll demanded on a question of adjournment shall be taken forthwith.
67. 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.
68. 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. A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.

### **VOTES OF MEMBERS**

69. No Member shall, unless the Directors otherwise determine, be entitled to vote at any general meeting, either personally or by proxy, or to exercise any privileges as a Member unless all calls or other sums presently payable by him in respect of Shares in the ICAV of which he is the holder or one of the joint holders have been paid.
70. Each of the Subscriber and Participating Shares entitles the holder to attend and vote at any general meeting **PROVIDED THAT** the holder of a Subscriber Share shall not be entitled to exercise any voting rights in respect of any Subscriber Share at any time that Participating Shares are held by more than one Member.
  - (1) On a show of hands, every Member entitled to vote shall have one vote in respect of all the Shares held by that Member. On a poll, every Member entitled to vote shall have one vote in respect of each Participating and Subscriber Share held by him.
  - (2) Notwithstanding any other provision in this Instrument of Incorporation if the Directors so determine, no Member holding Participating Shares may exercise any votes attaching to those Participating Shares if the exercise of such votes would result in the total aggregate number of votes exercised by such Member exceeding twenty per cent of the total number of votes attaching to Participating Shares, which are in issue at the time of exercise of those votes, in the ICAV or in any Fund. Any resolution passed by the Members, which but for any breach by a Member of this Article would not have been passed, shall be deemed never to have been passed and to be null and void.
71. 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.
72. 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 said 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.

73. 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.
74. On a poll votes may be given either personally or by proxy.
75. On a poll, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
76. 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.
77. Any person (whether a Member of the ICAV or not) may be appointed to act as proxy. A Member may appoint more than one proxy to attend on the same occasion.
78. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the 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. 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.
79. An instrument of proxy shall be in the following form or such other form as the Directors may approve, provided always that the instrument appointing a proxy shall comply with the provisions of the Act:

***Perpetual Investment Services Europe ICAV***

*I/We*

*of*

being a Member/Members of the above named ICAV hereby appoint \_\_\_\_\_ of

*or failing him*

*of*

*as my/our proxy to vote for me/us on my/our behalf at the (Annual or Extraordinary as the case may be) general meeting of the ICAV to be held on the \_\_\_\_\_ day of 20\_\_\_\_, and at any adjournment thereof.*

*Unless otherwise instructed, the proxy will vote or abstain from voting as he thinks fit.*

\* *Strike out whichever is not desired.*

80. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the Share in respect of which the instrument of proxy is given, provided that no intimation in writing of such death insanity, revocation or transfer shall have been received by the ICAV at the Office, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
81. Any corporation which is a Member of the ICAV may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the ICAV or at any meeting of any class of Members of the ICAV, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member of the ICAV and such corporation shall for the purposes of this Instrument of Incorporation be deemed to be present in person at any such meeting if the person so authorised is present thereat.
82. A resolution in writing executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members. 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.

## DIRECTORS

83. (1) Subject to the provisions of the Act and unless otherwise determined by the ICAV by Ordinary Resolution in general meeting, the number of the Directors shall not be less than two. The first Directors shall be the persons named as first Directors in the papers delivered to the Companies Registration Office. A Director (including any alternate Director appointed under Article 88(b) who is not himself a Director) may only be appointed thereafter if the approval of the Central Bank to such appointment has been obtained provided that such approval is not required for the appointment of an alternate Director for any first Director. The provisions of section 61 of the Act shall apply to such appointments.
- (2) The Directors shall not be required to retire by rotation.
84. Subject to section 69 of the Act, the Directors shall be entitled to such remuneration in relation to the performance of their duties as the Directors may from time to time

determine, which may be subject to adjustment from time to time at the annual general meeting. Such remuneration shall accrue from day to day. The Directors may grant extra remuneration to any Director who is called upon to perform any special or extra services for or at the request of the ICAV. The Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the ICAV or in connection with the business of the ICAV.

85. (a) A Director is expressly permitted (for the purposes of section 79(1)(d) of the Act) to use the ICAV's property. Subject to such conditions as may be approved by the board or such conditions as may have been approved pursuant to such authority as may be delegated by the Board in accordance with this Instrument of Incorporation.
86. A Director need not be a Member of the ICAV but shall be entitled to receive notice of and attend all general meetings of the ICAV and all separate general meetings of the holders of any class of shares in the capital of the ICAV.
87. Meetings of the Directors shall be held exclusively in Ireland.
88. (a) 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, subject to the provisions of the Act and of this Instrument of Incorporation. Any Director so appointed shall hold office on until the next following annual general meeting and shall then be eligible for re-election.
- (b) Any Director may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any person (including another Director) to be his alternate Director and may in like manner at any time terminate such appointment. Such appointment, unless previously approved by the Directors or unless the appointee is himself a Director (in which latter event no approval shall be required) shall have effect only upon and subject to being approved by the Directors and the Central Bank which approval is not required for an alternate Director for a first Director.
- (c) The appointment of an alternate Director shall terminate on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor ceases to be a Director.
89. 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 of this Instrument of Incorporation shall apply as if he (instead of his appointor) were a Director. Any Director who is appointed as an alternate Director shall be entitled at a meeting of the Directors to cast a vote on behalf of his appointor in addition to the vote to which he is entitled in his own capacity as a Director of the ICAV, and shall also be considered as two Directors for the purpose of making a quorum of Directors when such quorum shall exceed two.

If his appointor is for the time being temporarily unable to act through ill-health or disability his signature to any resolution in writing of the Directors 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 committees of the Directors, the foregoing provisions or this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which is appointor is a Member. An alternate Director shall not (save as aforesaid) have power to act as a Director nor shall he be deemed to be a Director for the purposes of this Instrument of Incorporation.

90. 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.
91. The office of a Director shall be vacated automatically 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 a declaration is made or deemed to be made in respect of him under Part 14 of the Act;
  - (c) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (d) if he becomes of unsound mind;
  - (e) if he is absent from meetings of the Directors for twelve successive months without leave expressed by a resolution of the Directors, and the Directors resolve that his office be vacated;
  - (f) if he ceases to be a Director by virtue of any provision of the Act, or becomes prohibited from being a Director by reason of, an order made under any provisions of any law or enactment; and
  - (g) if he be required in writing by all the other Directors (not being less than two in number) to vacate office; and
  - (h) if he is removed from office by an Ordinary Resolution of the ICAV in general meeting.
92. The ICAV at any general meeting at which a Director retires or is removed shall fill the vacated office by electing a Director, unless the ICAV shall determine to reduce the number of Directors.
93. At least seven days' previous notice in writing shall be given to the ICAV of the intention of any Member to propose any person for election to the office of Director and such notice shall be accompanied by a declaration in writing signed by the person

to be proposed confirming his willingness to be appointed; PROVIDED ALWAYS that if the Members present at a general meeting unanimously consent, the Chairman of such Meeting may waive the said notice and submit to the Meeting the name of any person so nominated (provided such person confirms in writing his willingness to be appointed).

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

### **TRANSACTIONS WITH DIRECTORS**

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

(b) No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the ICAV or in which the ICAV is interested, 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. A Director who is in any way, whether directly or indirectly, interested in such a contract or arrangement or proposed contract or arrangement with the ICAV shall declare the nature of his interest at the meeting of the Directors at which the question of entering into a contract or arrangement is first taken into consideration, if his interest then exists, or in any other case at the first meeting of the Directors after he becomes so interested. A general notice given by a Director to the effect that he is a Member of a specified company, society or firm and is to be regarded as interested in all transactions with such company, society or firm shall be a sufficient declaration of interest under this Article, and after such general notice it shall not be necessary to give any special notice relating to any subsequent transaction with such company or firm, provided that either the notice is given at a meeting of the Directors or the Director giving the notice takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given.

(c) Subject to paragraph 94(b) above, a Director may vote in respect of any contract, appointment or arrangement in which he is interested and he shall be counted in the quorum present at the meeting.

96. Any Director may act by himself or through his firm or corporate entity in a professional capacity for the ICAV, and he or his firm or corporate entity shall be entitled to remuneration for professional services as if he were not a Director.

97. Any Director may continue to be or become a director, managing director, manager or other officer or Member of any company promoted by the ICAV or in which the ICAV may be interested, and no such Director shall be accountable for any



remuneration or other benefits received by him as a director, managing director, manager, or other officer or Member of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to directors, managing directors, managers or other officers of such company).

## **POWERS OF DIRECTORS**

98. (1) The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not by the Act or by this Instrument of Incorporation required to be exercised by the ICAV in general meeting including the powers of the ICAV to borrow money, to mortgage or charge its undertaking, property and assets or any part thereof and to issue debentures, debenture stock or other securities, whether outright or as security for debts, subject nevertheless to this Instrument of Incorporation, to the provisions of the Act, and to such directions, being not inconsistent with this Instrument of Incorporation or provisos as may be prescribed by the ICAV in general meeting, but no direction made by the ICAV in general meeting shall invalidate any prior act of the Directors which would have been valid if such direction had already been made. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article.
- (2) The Directors shall at all times procure that the investment policy of the ICAV (and of any Fund in respect of which they may have adopted any investment restrictions pursuant to Article 20(3)) is conducted and implemented in accordance with the UCITS Rules, provided that
- (a) the States, local authorities or public international bodies (of which one or more Member States are Members) issuing or guaranteeing securities in which it intends to invest more than 35% of its net assets, pursuant to the UCITS Rules shall be each Member State (and their respective local authorities), a Member of the OECD, 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), Government of Singapore or one of the following bodies: European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, European Central Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), 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, Export-Import Bank;

- (b) the ICAV shall employ techniques and instruments relating to transferable securities for efficient portfolio management or as an investment policy in its own right under the conditions and within the limits laid down by the Central Bank; and
    - (c) the ICAV may acquire shares in a company managed by the Manager or by any other company with which the Manager is linked by common management or control, or by a substantial direct or indirect holding, which, in accordance with its Instrument of Incorporation, has specialised in investment in a specific geographical area or economic sector, and provided that no fees or costs are charged by the Manager on account of transactions relating to such acquisition and such investment is authorised by the Central Bank.
  - (3) The transferable securities in which the Directors may invest the Funds of the ICAV must be dealt in or quoted on a Recognised Market.
  - (4)
    - (a) Without prejudice to the limits specified in the UCITS Rules the limit in Regulation 70(1)(a) (as may be amended from time to time) is raised to 20% for investments in shares and/or debt securities issued by the same body where the investment policy of the Fund is to replicate an index (the details of which shall be set out in the applicable Supplement for that Fund). The index must be recognised by the Central Bank on the basis that it is (i) sufficiently diversified; (ii) represents an adequate benchmark for the market to which it refers; and (iii) is published in an appropriate manner.
    - (b) The Central Bank may raise the limit in Regulation 70(1)(a) (as may be amended from time to time) to a maximum of 35% where that proves to be justified by exceptional market conditions in particular in regulated markets where certain transferable securities or money market instruments are highly dominant. The investment up to this limit is only permitted for a single issuer.
99. The Directors may from time to time and at any time by power of attorney under the Seal, 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 of Incorporation) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorneys 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 as more particularly described in Article 14 hereof.

100. All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments, and all 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.

### **PROCEEDINGS OF DIRECTORS**

101. 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 may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
102. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two.
103. 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 of Incorporation, the continuing Directors or Director may act for the purpose of filling up 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.
104. 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. The Chairman or, failing him, the Deputy Chairman shall preside at all meetings of the Directors, but if there be no Chairman or Deputy Chairman, or if at any meeting the Chairman or Deputy Chairman be not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.
105. A resolution in writing signed by all the Directors for the time being entitled to receive a notice of a meeting of the Directors shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form each signed by one or more of the Directors.
106. A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.
107. Without prejudice to the powers of delegation conferred by Article 6 hereof, the Directors may delegate any of their powers to committees consisting of such Member or Members of their body as they think fit and, if thought fit, one or more other persons. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Directors.

108. The meetings and proceedings of any such committee consisting of two or more Directors shall be governed by the provisions of this Instrument of Incorporation regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations made by the Directors under the last preceding Article.
109. 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 Director 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.
110. 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,
- Any such minutes, 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.
111. A register of Directors' shareholdings shall be kept at the Office and shall be open to the inspection in accordance with the requirements of the Act. The said register shall also be produced at least one hour before the appointment time for the commencement of each annual general meeting and shall remain open and accessible during the continuance of the meeting to any person attending the meeting.
112. Any director may participate in a meeting of the Directors by means of telephone or other similar means of communication whereby all persons participating in the meeting can hear each other speak; and participation in a meeting in this manner shall constitute presence in person of such meeting and each participant shall be entitled to vote or be counted in a quorum accordingly. Any such meeting shall be deemed to take place where the Chairman of the meeting is present unless the meeting decides otherwise.

### **BORROWING AND OTHER POWERS**

113. (1) Subject as hereinafter provided the Directors may exercise all the powers of the ICAV to borrow money on a temporary basis (including the power to borrow for the purpose of redeeming Shares) and charge, to issue debentures, debenture stock or other securities, whether outright or as collateral security for any debt liability or obligation of the ICAV or of any third party, provided that no borrowings shall be made save in accordance with the UCITS Rules and the limits laid down by the Central Bank.

- (2) The ICAV may not grant loans nor act as a guarantor on behalf of third parties save in accordance with the UCITS Rules.
- (3) The ICAV may not carry out sales of transferable securities when such securities are not in its ownership.

### **MANAGING DIRECTOR**

- 114. (1) 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.
  - (2) 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.
115. A Managing Director shall not, while he continues to hold that office, be liable to retire by rotation (if the Instrument of Incorporation should so provide in the case of Directors generally) and he shall not be taken into account in determining the rotation in which the other Directors shall retire (except for the purpose of fixing the number to retire in each year), but he shall be subject to the same provisions as to removal and disqualification as the other Directors and if he ceases to hold the office of Director from any cause he shall ipso facto cease to be a Managing Director.
116. 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.

### **SECRETARY**

117. Subject to the provisions of the Act, the Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they think fit and any secretary so appointed may be removed by them, but without prejudice to any claim for damages for breach of any contract of service between him and the ICAV. If thought fit, two or more persons may be appointed joint secretaries. 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 specifically in that behalf by the Directors PROVIDED THAT any provisions of this Instrument of Incorporation requiring or authorising a thing to be done by or to a Director and the

Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

### **THE SEAL**

118. The ICAV shall not be required to have a common seal, but may provide itself with a common seal.
119. Documents shall have the same effect as if executed under the common seal of the ICAV if the document is expressed (in whatever form of words) to be executed by the ICAV and it is signed on behalf of the ICAV by:-
- (a) two authorised signatories of the ICAV; or
  - (b) by a director of the ICAV in the presence of a witness who attests the signature.
120. To the extent that the ICAV has a common seal, the name of the ICAV shall be engraved on the seal in legible characters and the Directors shall provide for the safe custody of the seal of the ICAV.

### **DIVIDENDS**

121. (a) The ICAV in general meeting may declare dividends on the Participating Shares of each Fund but no dividend shall exceed the amount recommended by the Directors in respect of each Fund respectively. The Directors may differentiate between the different Funds, as to the amount (if any) of any dividend recommended in respect of each Fund. Furthermore, in accordance with Article 13(6), where the Directors have created different types of Participating Shares within each Fund, they may differentiate between the different types as to the amount (if any) of any dividend recommended in respect of each Fund. Details of such dividend policies in respect of any Fund or type of Participating Shares within a Fund will be set out in the applicable Supplement for that Fund. The Directors may from time to time if they think fit pay such interim dividends on Participating Shares of any Fund as appear to the Directors to be justified, and may specify a fixed date or dates of payment of dividend for a particular Fund or Funds (or types within such Fund(s)).
- (b) The dividend for any particular class of Participating Share shall be paid only out of profits available for distribution out of the Fund relating to that class of Participating Shares. The maximum rate of any dividend payable on Participating Shares in respect of each financial year of the ICAV shall be calculated by the Directors and shall be arrived at by dividing the amount of profits of a Fund (including any amounts treated as profits in accordance with the accounting policies of the ICAV laid down from time to time) after tax and after expenses charged against income. The profits of a Fund may also include realised gains net of realised and unrealised losses as may be set out in the Supplement for a Fund. Income equalisation may also be applied in respect of the Participating Shares in a Fund in the manner set out in the Prospectus and/or Supplement for a Fund. Distribution may also be made from the capital element of any Fund in accordance with the requirements of the Central Bank

and where it is intended that distributions are paid out of capital, this will be set out in the applicable Supplement for a Fund. Furthermore, certain Funds may charge all or part of fees and expenses to the capital of the relevant Fund, details of which shall also be set out in the relevant Supplement for that Fund.

122. The Directors may, with the sanction of a resolution in general meeting of the holders of Participating Shares of any Fund, distribute in kind among the Shareholders of that Fund by way of dividend or otherwise any of the assets of the relevant Fund provided that no distribution shall be made which would amount to a reduction of capital except in a manner allowed by law.
123. All Participating Shares shall unless otherwise determined by the Directors or by the terms of issue thereof rank for dividend as from the beginning of the accounting period in which they are issued.
124. Any resolution of the Directors declaring a dividend on the Participating Shares of any Fund and any resolution of the Directors for the payment of a fixed dividend on the date prescribed for the payment thereof may specify that the same shall be payable to the persons registered as the holders of Participating Shares of the Fund concerned 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 (or, as the case may be, that prescribed for payment of a fixed dividend), and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend of transferors and transferees of Participating Shares of the relevant Fund.
125. The ICAV may transmit any dividend or other amount payable in respect of any Participating Share by electronic transfer or by cheque or warrant sent by ordinary post to the registered address of the holder, or, in the case of joint holders, of one of them to such person and address as the holder or joint holders may direct, and shall not be responsible for any loss arising in respect of such transmission.
126. No dividend or other amount payable to any Shareholder shall bear interest against the ICAV. All unclaimed dividend and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the ICAV until claimed. Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a Participating Share into a separate account shall not constitute the ICAV a trustee in respect thereof. Any dividend unclaimed after twelve years from the date when it first became payable shall be forfeited to the relevant Fund automatically, without the necessity for any declaration or other action by the ICAV.
127. The Directors (or their agents) may :
  - (i) deduct from any dividend payment (or other distribution) to a holder of Participating Shares all sums necessary; or
  - (ii) compulsorily repurchase or redeem from a holder of Participating Shares' holding of Participating Shares, Participating Shares of such value as is necessary,

to offset any liability to taxation or withholding tax arising as a result of the dividend payment to the relevant holder of Participating Shares.

## **FINANCIAL STATEMENTS**

128. The Directors shall cause to be kept proper books of account as are necessary in relation to the conduct of the ICAVs' business within the meaning of section 110 of the Act with respect to:-
- (a) all sums of money received and expended by the ICAV and the matters in respect of which such receipt and expenditure take place;
  - (b) all sales and purchases of the ICAV;
  - (c) the assets and liabilities of the ICAV; and
  - (d) all such other matters as may for the time being be specified by the Act or by the Central Bank pursuant to paragraph 126 of the Regulations
129. The Books of Account shall be kept at the Office, subject to the requirements of the Act, at such other place as the Directors think fit, and shall always be open inspection by the Directors. No member (other than a Director) shall have any right of inspecting any account, book or document of the ICAV except as conferred by the Act or authorised by the Directors or by the ICAV in general meeting.
130. The Directors shall from time to time in accordance with the provisions of the Act and paragraph 88 of the Regulations, cause to be prepared and to be laid before the ICAV in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are specified in the Act made up to the Accounting Date in each year or such other date as the Directors may from time to time decide
131. A printed copy of the Directors' Report accompanied by the balance sheet (including every document required by law to be annexed thereto) and profit and loss account shall not less than twenty-one days previous to any Annual General Meeting be delivered or sent by post to the registered address of every member of the ICAV and to the Auditors provided that this Clause shall not require a copy of these documents to be sent to more than one of the joint holders of any Shares. Copies of such Reports and accounts shall be made available by the ICAV upon request to any holder of a share warrant or a member of the public. Such documents shall include all information required to be specified therein by the Act and by paragraph 89 of the Regulations.
132. The ICAV shall prepare an un-audited half yearly report for the first six months of each financial year. Such report shall be in a form approved by the Central Bank and shall contain the information required under the Act and the Regulations.
133. Notwithstanding Article 133 or any other requirement of this Instrument, separate accounts may be prepared and presented in 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.



134. Copies of the half yearly report shall be sent to the Shareholders not later than two months from the end of the period to which it relates.
135. The ICAV shall provide the Designated Authority with all reports and information to which it is entitled under the Act and the Regulations.

### **CAPITALISATION OF PROFITS**

136. The ICAV in General Meeting may upon the recommendation of the Directors resolve 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 reserve) or to the credit of the profit and loss account or which is otherwise available for distribution and not required for payment of dividends on any Shares with a preferential right to dividend amongst the Members 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 Members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution.
137. Whenever such a resolution as aforesaid shall have been passed, 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 or debentures, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision as they shall think fit for the case of Shares or debentures becoming distributable in fractions (and in particular, without prejudice to the generality of the foregoing, to sell the Shares or debentures represented by such fractions and distribute the net proceeds of such sale amongst the Members otherwise entitled to such fractions in due proportions) and also to authorise any person to enter on behalf of all the Members concerned into an agreement with the ICAV providing for the allotment to them respectively credited as fully paid up of any further Shares or debentures to which they may become entitled on such capitalisation or, as the case may require, for the payment up by the application thereto of their respective proportions of the profits resolved to be capitalised of the amounts remaining unpaid on their existing Shares and any agreement made under such authority shall be effective and binding on all such Members.

### **AUDIT**

138. Auditors shall be appointed and their duties regulated in accordance with the Act and the UCITS Rules.

## NOTICES

139. Any notice or document may be served by the ICAV on any Member either personally or by sending it through the post in a prepaid letter addressed to such Member at his address as appearing in the Register or may be sent by Electronic Means to such Electronic Address as may have been provided to the ICAV by the Member. In the case of joint holders of a Share, all notices shall be given to that one of the joint holders whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.
140. Notice of every general meeting shall be given in any manner hereinbefore authorised to:
- (a) every Member in the ICAV;
  - (b) every person upon whom the ownership of a Share devolves by reason of his being a personal representative or the Official Assignee in bankruptcy of a member, where the member but for his death or bankruptcy would be entitled to receive notice of the meeting;
  - (c) the Directors;
  - (d) the Secretary; and
  - (e) the Auditors.

No other person shall be entitled to receive notices of general meetings.

141. A notice or other document addressed to a Shareholder at his registered address or address for service shall if served by post be deemed to have been served in the case of notice of a meeting at the expiration of 72 hours after it shall have been posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the notice or document was properly addressed, stamped and posted.
142. Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Instrument of Incorporation shall notwithstanding that such Shareholder be then dead or bankrupt, and whether or not the ICAV has notice of his death or bankruptcy, be deemed to have been duly served in respect of any Participating Share registered in the name of such Shareholder as sole or joint holder, unless his name shall at the time of the service of the notice or document, have been removed from the Register as the holder of the Share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the Participating Share.
143. Where a notice, document or other information is given, served or delivered in electronic form whether as an electronic communication or otherwise, it shall be treated as having been given, served or delivered:

- (i) if given, served or delivered by electronic mail, at the time it was sent; or
  - (ii) where any such notice or document is given, served or delivered by being made available or displayed on a website, when the recipient received or is deemed to have received notice of the fact that the notice, document or other information was available on the website.
- 144. Notices to be posted to addresses outside Ireland and the United Kingdom shall so far as practicable be forwarded by prepaid airmail.
- 145. Any Member present, in person or by proxy, at any meeting of the ICAV shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.
- 146. Any summons, notice, order or other document required to be sent to or served upon the ICAV, or upon any officer of the ICAV may be sent or served by leaving the same or sending it through the post in a prepaid letter envelope or wrapper, addressed to the ICAV or to such officer at the Office.
- 147. The signature to any notice or other document to be given by the ICAV may be written or printed.

## **WINDING UP**

- 148. The provisions of Part 11 of the Companies Act 2014, and the other provisions of the Companies Act 2014 relating to the winding up of companies (including, in particular, provisions about summary approval procedure) apply, subject to the necessary modifications and the specific modifications specified in the Act, in relation to an ICAV as if it were an investment company.
- 149.
  - (1) Subject and without prejudice to Article 197, if the ICAV shall be wound up the liquidator shall apply the assets of the ICAV in such manner and order as he thinks fit in satisfaction of creditors' claims. The liquidator shall in relation to the assets available for distribution among the Members make in the books of the ICAV such transfers thereof to and from Funds as may be necessary in order that the effective burden of such creditors' claims may be shared between the holders of Shares of different Funds in such proportions as the liquidator in his absolute discretion may think equitable having regard to the provisions of Article 20 hereof and the Act.
  - (2) The assets available for distribution among the Members shall then be applied in the following priority:
    - (i) First, in the payment to the holders of the Participating Shares of each Fund of a sum in the currency in which that Fund is designated (or in any other currency selected by the liquidator) as nearly as possible equal (at a rate of exchange determined by the liquidator) to the Net Asset Value of the Participating Shares of such Fund held by such holders respectively as at the date of commencement to wind up provided that there are sufficient assets available in the relevant Fund

to enable such payments to be made. In the event that, as regards any Fund, there are insufficient assets available in the relevant Fund to enable such payment to be made recourse shall be had:

- a) first, the assets of the ICAV not comprised within any of the Funds; and
  - b) secondly, to the assets remaining in the Funds for the other classes of Participating Shares (after payment to the holders of the Participating Shares of the classes to which they relate of the amounts to which they are respectively entitled under this paragraph 149(i)) pro rata to the total value of such assets remaining within each such Fund.
- (ii) Secondly, in the payment to the holders of the Subscriber Shares of sums up to the nominal amount paid thereon out of the assets of the ICAV not comprised within any of the Funds remaining after any recourse thereto under paragraph 149(i) above. In the event that there are insufficient assets as aforesaid to enable such payment in full to be made, no recourse shall be had to the assets comprised within any of the Funds.
- (iii) Thirdly, in the payment to the holders of each class of Participating Shares of any balance then remaining in the relevant Fund, such payment being made in proportion to the number of Shares of that Fund held.
- (iv) Fourthly, in the payment to the holders of the Participating Shares of any balance then remaining and not comprised within any of the Funds, such payment being made in proportion to the number of Participating Shares held.
- (3) If the ICAV shall be wound up (whether the liquidation is voluntary, under supervision or by the court) the liquidator may, with the authority of a Special Resolution and any other sanction required by the Act, divide among the Members in specie the whole or any part of the assets of the ICAV, and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he deems fair upon any one or more class or classes of property, and may determine how such division shall be carried out as between the Members. The liquidator may, with the like authority, vest any part of the assets in trustees on such trusts for the benefit of Members as the liquidator, with the like authority, shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, but so that no Member shall be compelled to accept any assets in respect of which there is any liability. For the avoidance of doubt, if the Special Resolution above is passed, each Member is entitled to elect on winding-up whether or not he wishes to receive a distribution in specie or a cash distribution made in accordance with the provisions of Article 149(i). However, in the absence of a Member electing to receive a distribution in specie on winding-up, such Member shall receive a cash distribution payment in accordance with the provisions of Article 149(i). Furthermore, where the ICAV agrees to sell the assets if requested by a

Shareholder, the costs of such sale can be charged to the redeeming Shareholder.

### **INDEMNITY**

150. (1) Subject to the provisions of and insofar as may be permitted by the Act and the Act, every Director, Secretary and other officer or servant of the ICAV shall be indemnified by the ICAV against, and it shall be the duty of the Directors out of the funds of the ICAV to pay all costs, losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into, or act or thing done by him as such officer or servant or in any way in discharge of his duties, including travelling expenses, and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the ICAV and have priority as between the Members over all other claims.
- (2) The Depositary and the Manager shall be entitled to such indemnity from the ICAV under 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 Depositary Agreement and the Management Agreement.

### **RESERVES**

151. The Directors may before declaring any dividends set aside out of the profits of the ICAV and carry to the credit of any reserve account such sums as they think proper, which shall, at the discretion of the Directors, be applicable for any purpose to which the profits or reserves may be properly applied and pending such application may at the like discretion either be employed in the business of the ICAV or be invested in such Investments as the Directors may from time to time think fit. The Directors may also carry forward to the accounts of the succeeding year or years any balance of profits which they shall think fit neither to divide nor to place to reserve.

### **DEALINGS BY THE MANAGER ETC.**

152. Any person being the Manager, the Administrator, the Depositary and any associate of the Manager, the Administrator or the Depositary may:
- (b) become the owner of Participating Shares in the ICAV and hold, dispose or otherwise deal with Participating Shares as if that person were not such a person; or
  - (c) deal in property of any description on that person's individual account notwithstanding the fact that property of that description is included in the property of the ICAV; or
  - (d) act as agent or principal in the sale or purchase of property to or from the Depositary for the account of the ICAV without that person's having to account to any other such person, to the Members or to any of them for any profits or benefits made by or derived from or in connection with any such transaction provided that such transactions are carried out as if effected on

normal commercial terms negotiated at arms length, are in the best interests of the Shareholders; and

- (i) a certified valuation of such transaction by a person approved by the Depositary as independent and competent has been obtained; or
- (ii) such transaction has been executed on best terms on an organised investment exchange under its rules; or
- (iii) where (i) and (ii) are not practical, such transaction has been executed on terms which the Depositary is satisfied conform with the principle that such transactions be carried out as if effected on normal commercial terms negotiated at arms length.

### **RESTRICTION ON MODIFICATIONS TO THE CONSTITUTION**

153. No modification shall be made to the Instrument of Incorporation of the ICAV which would result in the ICAV ceasing to be authorised under the Act.

No alteration to the Instrument of Incorporation and no change in the name of the ICAV shall be made without obtaining the prior approval of the Central Bank. No alteration to the Instrument of Incorporation shall be made unless:

- (a) the alteration has been approved by Ordinary Resolution; or
  - (b) the Depositary has certified in writing that the amendment does not:
    - (i) prejudice the interests of the Members; and
    - (ii) relate to any such matter as may be specified by the Central Bank as one in the case of which an alteration may be made only if approved by the Members.
154. In accordance with the Act, a change in the name of the ICAV does not constitute an alteration to the Instrument of Incorporation

### **DESTRUCTION OF DOCUMENTS**

155. The ICAV shall be entitled to destroy all instruments of transfer of Shares which have been registered at any time after the expiration of six years from the date of registration thereof and all dividend mandates and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of one year from the date of cancellation thereof and it shall conclusively be presumed in favour of the ICAV that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other documents so destroyed was a valid and effective instrument duly and properly registered and every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and every other document hereinbefore mentioned in accordance with the recorded particulars thereof in the books or records of the ICAV. PROVIDED ALWAYS that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (b) nothing herein contained shall be construed as imposing upon the ICAV any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the ICAV in the absence of this Article; and
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

### **TOTAL REPURCHASE**

156. The ICAV may, by not less than four, nor more than twelve weeks' notice to all Members, repurchase at the Net Asset Value per Participating Share on such Dealing Day, all (but not some) of the Participating Shares in issue for any class of Participating Share or all classes of Participating Shares on such date in the following instances:-

- (i) if the ICAV or any Fund is no longer an authorised UCITS;
- (ii) if any law is passed which renders it illegal or, in the reasonable opinion of the Directors it is impracticable or inadvisable, to continue the ICAV or any Fund;
- (iii) if within a period of 120 days from the date on which the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement, or from the date on which the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement, or from the date on which the Depositary ceases to be qualified under Article 8 hereof, no new Depositary shall have been appointed;

provided that such repurchase does not result in the issued share capital being reduced to below the minimum amount permitted under the Act.

### **OVERRIDING PROVISIONS**

157. The ICAV's business will be conducted in accordance with the Act. In the event of there being any conflict between the provisions of this Instrument of Incorporation and the Act, the Act shall prevail. The approval of the Central Bank shall be required to any amendment to this Instrument of Incorporation.

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

<b>Names, Addresses and Descriptions of Subscribers</b>	<b>Number of Shares taken by each Subscriber</b>
J O Hambro Capital Management Limited Ground Floor Ryder Court 14 Ryder Street London SW1 6QR  Limited Liability Company  Director/Authorised Signatory	One
James Daryl Hambro 15 Elm Park Road London SW3 6BP England  Director	One
Nichola Pease 6 Swan Walk Chelsea London SW3 4JJ England  Investment Manager	One
Graham Warner Ground Floor Ryder Court 14 Ryder Street London SW1 6QR  Finance Director	One
Robert Barrett Ground Floor Ryder Court 14 Ryder Street London SW1 6QR England  Director	One



Rachel Butlin  
Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1 6QR  
England

One

Secretary

Ryan Corton  
Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1 6QR  
England

One

Head of Operations

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Total Shares taken

Seven

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Dated 24 May 2001

Witness to the above signatures:-

Name:

Bonita Dryden

Address:

c/o Ground Floor  
Ryder Court  
14 Ryder Street  
London SW1Y 6QB

## APPENDIX V

### Shareholder Notices

#### **Austria:**

The Prospectus, together with the Supplements, the Key Information Documents, the Constitution and the annual and semi-annual reports of the Company, each in paper form, as well as the issue, repurchase and any exchange prices are available and may be obtained free of charge at the office of the Austrian Paying Agent: Erste Bank der oesterreichischen Sparkassen AG, Am Belvedere 1, 1100 Wien, Austria.

#### **Belgium:**

The Prospectus, together with the Supplements, the Key Information Documents, the Constitution and the annual and semi-annual reports of the Company, each in paper form, as well as the issue, repurchase and any exchange prices are available and may be obtained free of charge from our service intermediary in Belgium (FE fundinfo (Luxembourg) S.à.r.l. whose postal address is 6 Boulevard des Lumières, Belvaux 4369, Luxembourg or by electronic means at [fa\\_gfr@fefundinfo.com](mailto:fa_gfr@fefundinfo.com)) and on the website [www.fundinfo.com](http://www.fundinfo.com).

#### **Germany:**

For the German investors, GerFIS – German Fund Information Service UG, Zum Eichhagen 4, 21382 Brietlingen, Germany is the facilities service provider according to Sec. 306a (1) German Investment Code (KAGB) and the relevant Prospectus and key information documents for packaged retail and insurance-based investment products (PRIIPs-KIDs), the Certificate of Incorporation and the Constitution and the annual and semi-annual reports are available there free of charge in paper form.

#### **Switzerland:**

The representative in Switzerland is 1741 Fund Solutions Ltd., Burggraben 16, 9000 St. Gallen, Switzerland (the “Representative”). The paying agent in Switzerland is Telco Ltd, Bahnhofstrasse 4, 6430 Schwyz, Switzerland. The Prospectus, the KIDs, the Constitution and the annual and semi-annual reports may be obtained free of charge from the Representative.