

DATED 20 December 2019

**MERCER GLOBAL INVESTMENTS MANAGEMENT LIMITED  
(Manager)**

and

**STATE STREET CUSTODIAL SERVICES (IRELAND) LIMITED  
(Depositary)**

**AMENDED AND RESTATED DEED OF CONSTITUTION  
CONSTITUTING**

**MERCER UCITS COMMON CONTRACTUAL FUND**

**AN OPEN-ENDED UMBRELLA COMMON CONTRACTUAL FUND  
AUTHORISED BY THE CENTRAL BANK OF IRELAND AND  
ESTABLISHED PURSUANT TO THE UCITS REGULATIONS, AS  
AMENDED**

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**MERCER UCITS COMMON CONTRACTUAL FUND**

**THIS AMENDED AND RESTATED DEED** is entered into the 20 day of *December* 2019

**BETWEEN**

**MERCER GLOBAL INVESTMENTS MANAGEMENT LIMITED** having its registered office at 70 Sir John Rogerson's Quay, Dublin 2, Ireland (hereinafter called the "**Manager**");

**AND**

**STATE STREET CUSTODIAL SERVICES (IRELAND) LIMITED** having its registered office 78 Sir John Rogerson's Quay, Dublin 2, Ireland (hereinafter called the "**Depositary**").

**WHEREAS**

The Manager and the Depositary have agreed to amend and restate the deed dated 20 February 2019 (the "**Original Trust Deed**") pursuant to the terms set out in this amended and restated deed (this "**Deed**") which for the avoidance of doubt shall supersede and replace the Original Trust Deed.

**NOW THIS DEED WITNESSETH** as follows:

**1.00 DEFINITIONS**

1.01 Unless the subject or context otherwise requires the words and expressions following shall have the following meanings respectively, that is to say:

"**Accounting Date**" means the date by reference to which the annual accounts of the Fund and each of its Sub-Funds shall be prepared and shall be such date as the Manager in accordance with the requirements of the Central Bank may determine and disclose in the Prospectus (or in the case of the termination of the Fund Period or of a Sub-Fund Period) the date on which the final distribution shall have been made to Unitholders.

"**Accounting Period**" means, in respect of each Sub-Fund, a period ending on an Accounting Date and commencing, in the case of the first such period on the date of the first issue of Units of the relevant Sub-Fund and, in subsequent periods, on the expiry of the preceding Accounting Period.

"**Administration Expenses**" means the sums payable out of the Assets necessary to provide for all costs, charges and expenses including, but not limited to courier's fees, telecommunication costs and expenses, out-of-pocket expenses, legal, marketing and expenses in connection with the establishment of or ongoing administration of the Fund or any of its Sub-Funds or otherwise together with the costs, charges and expenses, including translation costs, of any notices including but not limited to reports, prospectuses, listing particulars (if applicable) and newspaper notices given to Unitholders in whatever manner and all properly vouched fees and reasonable out-of-pocket expenses of the Manager and/or any delegate of the Manager, duly appointed in accordance with the requirements of the Central Bank, plus value added tax (if any) on any such costs, charges and expenses.

"**Administrator**" means State Street Fund Services (Ireland) Limited or any other entity acting as administrator to the Fund in accordance with the requirements of the Central Bank.

"**Assets**" means the Investments, cash, derivatives and all property for the time being held by or on behalf of the Depositary under the terms of the Depositary Agreement.

**"Associate"** in relation to a corporation means a holding company or a subsidiary of such corporation or a subsidiary of the holding company of such corporation and in relation to an individual or firm or other unincorporated body means any corporation directly or indirectly controlled by such person.

**"Auditors"** means any person or firm qualified for appointment as auditor of an authorised Common Contractual Fund under the UCITS Regulations appointed as auditor or auditors by the Manager.

**"Base Currency"** means the currency of account of a Sub-Fund as specified in the Prospectus.

**"Business Day"** means such day or days as the Manager may determine in respect of any Sub-Fund and disclose in the Prospectus.

**"Central Bank"** means the Central Bank of Ireland or any successor regulatory authority with responsibility for authorising and supervising the Fund.

**"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 (as may be amended or supplemented from time to time) in addition to any guidance issued by the Central Bank in respect of same.

**"Class"** means any Class of Unit issued by the Manager in respect of any Sub-Fund.

**"Clause"** or **"Sub-Clause"** means a clause or sub-clause of this Deed.

**"Common Contractual Fund"** means a collective investment undertaking, being an unincorporated body established by a management company, under which the participants by contractual arrangement participate and share in the property of the collective investment undertaking and which is authorised by the Central Bank pursuant to the UCITS Regulations.

**"Dealing Day"** means, in relation to any Sub-Fund, such day or days as the Manager may from time to time determine and specify in the Prospectus.

**"Depositary Agreement"** means the depositary agreement dated 2019 entered into between the Manager and the Depositary in respect of the Fund, as may be amended or supplemented from time to time, and relating to the appointment and duties of the Depositary.

**"Directors"** means the board of directors of the Manager and any duly constituted committee thereof.

**"Disbursements"** means all disbursements, costs, charges and expenses of every kind properly incurred by the Manager, the Depositary, or any delegate of each of them, in connection with the Fund and each of its Sub-Funds hereunder including (but not limited to) its establishment costs, courier's fees, telecommunication costs and expenses, the remuneration (at normal commercial rates) and out-of-pocket expenses of the Manager, the Depositary or each of them or any delegate appointed by either of them and all legal and other professional expenses in relation to or in any way arising out of the Fund and of each of its Sub-Funds (including the establishment thereof), together with any value added tax liability on such disbursements, costs, charges and expenses.

**"Duties and Charges"** means all stamp duty and other duties, taxes, governmental charges, imposts, levies, exchange costs and commissions, bank charges, transfer or registration fees and expenses, agents' fees, brokerage fees and other duties and charges, whether payable in respect of the constitution, increase or reduction of all of the cash and other assets of the Fund or a Sub-Fund, as the case may be, or the creation, issue, conversion, exchange, or redemption of Units; or the acquisition, exchange, purchase, holding, sale, or transfer of Units or Investments by or on behalf of the Fund or a Sub-Fund, as the case may be, or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation.

**"Eligible Investor"** means an investor who is: (a) a pension fund; or (b) a person (other than an individual) beneficially holding Units of the Fund or of a Sub-Fund; or (c) a custodian or trustee holding Units of the Fund or of a Sub-Fund for the benefit of such person(s) as referred to in (a) or (b).

**"EU"** means the European Union.

**"Euro"** means the unit of single currency of participating Member States of the Economic and Monetary Union.

**"Fund"** means the Fund to be called by the name Mercer UCITS Common Contractual Fund (or by such other name as the Manager may with the approval of the Central Bank from time to time determine) as constituted by this Deed and shall, where the context so requires, include any one or more of its Sub-Funds.

**"Fund Period"** means the period from the date of authorisation until the Fund shall be terminated in the manner hereinafter provided.

**"Gross Income"** means all dividends, interest income and all other income earned by a Sub-Fund to which each Unitholder is beneficially entitled as these items of income arise in the Sub-Fund during a Gross Income Period and payable to Unitholders of the Sub-Fund (or a Class thereof) calculated and as may be adjusted, including as reduced for expenses of the Sub-Fund, as described in the Gross Income Payments definition below.

**"Gross Income Date"** means such date as the Manager may determine and disclose in the Prospectus.

**"Gross Income Payments"** means the amount to be paid to Unitholders in accordance with Clause 15.00.

**"Gross Income Period"** means any period ending on an Accounting Date or a Gross Income Date as the Manager may select and beginning on the day following the last preceding Accounting Date, or the day following the last preceding Gross Income Date, or the date of the initial issue of Units of a Sub-Fund, as the case may be.

**"Initial Offer Period"** means the period during which Units in any Sub-Fund or Class may be offered by the Manager for purchase or subscription at the Initial Price.

**"Initial Price"** means the initial price determined by the Manager at which any Units may be offered by the Manager for purchase or subscription.

**"Investment"** means a permitted investment as set out in Clause 4.00.

**"Investment Objective and Policies"** means the investment objective and policies determined by the Manager for a particular Sub-Fund as more fully set out in the Prospectus.

**"Investment Manager"** means any one or more persons or corporations appointed by the Manager in accordance with the requirements of the Central Bank to manage the investment and re-investment of some or all of the Assets of any one or more of the Sub-Funds of the Fund and / or to provide investment advisory services in respect of one or more of the Sub-Funds.

**"Member State"** means a member state of the EU.

**"Net Asset Value"** means the amount determined as being the Net Asset Value of a Sub-Fund for any particular Dealing Day pursuant to Clause 9.00 of this Deed.

**"Net Asset Value per Unit"** means the amount determined as being the Net Asset Value per Unit of a Sub-Fund or any Class of Unit for any particular Dealing Day as calculated pursuant to Clause 9.00 of this Deed.

**"OECD or OECD Countries"** means the countries which are members of the Organisation of Economic Co-Operation and Development and any additional countries which may join as members.

**"Prospectus"** means the Prospectus for the time being in issue for the Fund and any relevant addendum or supplement thereto issued by or on behalf of the Manager from time to time.

**"Registers"** means the registers referred to in Sub-Clause 7.01.

**"Registration Number"** means a number given to each Unitholder.

**"Regulated Market"** means any stock exchange, over-the-counter market or other securities market in any part of the world which is regulated, operating regularly, recognised and open to the public.

**"Subscription Price"** means the price at which Units shall be allotted and calculated in accordance with Clause 3.08.

**"Sub-Fund" or "Sub-Funds"** means the Sub-Funds of the Fund or any additional Sub-Fund or Sub-Funds established by the Manager from time to time with the prior approval of the Central Bank.

**"Sub-Investment Manager"** means a sub-investment manager or sub-investment managers appointed by the Investment Manager in accordance with the requirements of the Central Bank in respect of a Sub-Fund.

**"Tax Class"** means a Class of Unit established for Unitholders with the same, or a similar, tax status, including entitlements to the same, or similar, withholding tax and reclaim rates;

**"Tax Documentation"** means any tax forms, declarations, attestations, powers of attorney, or other documentation which may be requested in order to allow the Manager or the Depositary (or their delegates) to apply for reduced rates or reclaims of withholding tax that may be permitted in the name of the Unitholder under the applicable laws, guidance and market practice on Investments made by the Sub-Funds.

**"UCITS"** means an undertaking for collective investment in transferable securities within the meaning of the UCITS Regulations.

**"UCITS Directive"** means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities as amended by Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 as regards depositary functions, remuneration policies and sanctions including its mandatory implementing regulations on an EU or Home Member State level.

**"UCITS Regulations"** means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. 352 of 2011) (as may be amended or supplemented from time to time) and all applicable regulations made or conditions imposed or derogations granted thereunder whether by notice or otherwise.

**"Unit"** means one undivided interest in the assets of a Sub-Fund and includes any fraction of a Unit which may be further divided into different Classes of Unit.

**"United States"** the United States of America, its territories and possessions, including the States and the District of Columbia.

**"Unitholder"** means person or persons (other than a natural person), including the holder of an office for the time being, entered on the register maintained on behalf of the Fund with respect to a Sub-Fund as the holder for the time being of Units and includes persons so entered as joint holders of a Unit, such holder or holders being entitled to an undivided co-ownership interest as tenants in common with the other holders in the Assets of a Sub-Fund and each a "Unitholder."

**"U.S. Person"** means person or entity as the Directors may from time to time determine and disclose in the Prospectus.

**"Valuation Point"** means the time or times by reference to which the Net Asset Value shall be calculated on or with respect to each Dealing Day as determined by the Manager and specified in the Prospectus.

- 1.02 Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender only shall include the feminine and neuter genders and words importing persons shall include firms, corporations, trusts, companies and incorporated and unincorporated bodies and the words "written" or "in writing" shall include printing, engraving, lithographing or other means of visible reproduction. The marginal notes and headings herein are inserted for convenience only and shall not affect the construction or interpretation hereof. References herein to this "Deed" or the "Deed of Constitution" and words of similar import shall mean this Deed and the appendices as from time to time amended by deed expressed to be supplemental to, and made pursuant to the provisions of this Deed.

## 2.00 CONSTITUTION OF THE FUND

### 2.01 (A) The Fund: Mercer UCITS Common Contractual Fund

The Manager hereby establishes the Fund as an umbrella Common Contractual Fund, with the intention that the Fund will be authorised pursuant to the UCITS Regulations, being an unincorporated body under which the Unitholders participate and share in the



property of the Fund, including without limitation, income and gains arising thereon and profits derived therefrom as such income, gains and profits arise, as co-owners in accordance with the terms of this Deed. The Fund is an umbrella fund within the meaning of the UCITS Regulations and comprises separate Sub-Funds by reference to which Units are issued. Neither the Fund nor any Sub-Fund has a separate legal personality. Reference to the Fund or Sub-Fund shall, unless context requires otherwise, be read as a reference to the Manager or the Depositary acting on behalf of the Unitholders of the Fund or Sub-Fund.

The sole object of the Fund is the collective investment in transferable securities and/or other liquid financial assets pursuant to Regulation 68 of the UCITS Regulations, of capital raised from the public and which operates on the principle of risk-spreading.

The Manager may at any time, with the prior approval of the Central Bank, establish an additional Sub-Fund or Sub-Funds to be designated by such name or names and for the purpose of making such Investment or Investments as the Manager may deem appropriate.

The Manager shall have power upon notice to the Central Bank to close any Sub-Fund by serving not less than thirty days' notice of such closure on the holders of Units in that Sub-Fund. The Manager shall also apply to the Central Bank for revocation of approval of any such Sub-Fund.

The Manager may, with advance notification to the Central Bank and in accordance with the requirements of the Central Bank, classify Units in Sub-Funds into different Classes and create such new Classes of Units on such terms as they may from time to time determine and may, in its absolute discretion, differentiate between Classes, including, without limitation, as to the level of management fees payable in respect of each such Class, distributions, different categories of investors, switching charges, expenses, designated currency and any hedging strategy to be adopted in relation to them. Details in relation to each Class shall be set out in the Prospectus. A separate pool of assets will not be maintained for each Class. Foreign exchange hedging may be utilised for the benefit of a particular Class, its cost and related liabilities and/or benefits shall be for the account of that Class only. Accordingly, such costs and related liabilities and/or benefits will be reflected in the Net Asset Value per Unit for Units of any such Class.

(B) Constitution of Assets:

The Assets of each Sub-Fund shall initially be constituted out of the proceeds of the issue by the Manager of the first Units of the Sub-Fund or one or more Classes of the relevant Sub-Fund and shall thereafter be constituted out of the proceeds of subsequent issues of Units and the Investments, cash and other property held or received by or on behalf of the Depositary for the account of the relevant Sub-Fund.

(C) Management of Assets:

The Assets of each Sub-Fund shall be managed and administered by the Manager or its delegates solely and exclusively in the interests of Unitholders in accordance with the provisions of this Deed and the Prospectus for the relevant Sub-Fund. The Directors shall determine the investment policy of the Sub-Funds in accordance with

the applicable Investment Objective and Policies. The powers of the Manager shall include, but not be limited to, the purchase, sale, subscription, exchange and receipt of securities and other property permitted by the UCITS Regulations and the exercise of all rights attaching directly or indirectly to the Assets of each Sub-Fund and, in its capacity as manager of the Fund and its Sub-Funds, the Manager may contract on behalf of and bind the Fund and its Sub-Funds or any of them.

As at the date of this Deed, the Manager acts as manager to the Fund. The appointment of the Manager has been notified to and approved by the Central Bank. Any replacement of the Manager or any appointment by the Manager of a third party delegate (which shall be by way of separate written agreement) must be notified in advance to and approved by the Central Bank.

(D) Safekeeping of Assets

The Depositary shall be responsible for the safekeeping of the Assets of each Sub-Fund in accordance with and subject to the terms herein, the UCITS Regulations and the terms of the Depositary Agreement.

(E) Provisions relating to each Sub-Fund:

The following provisions shall apply to each Sub-Fund established from time to time by the Manager:

- (1) the records and accounts of each Sub-Fund shall be maintained separately in the Base Currency. The proceeds from the issue of Units of a Sub-Fund or each Class of a Sub-Fund shall be applied in the records and accounts of the Fund to the relevant Sub-Fund and the Assets and liabilities and income and expenditure attributable thereto shall be applied to such Sub-Fund subject to the provisions of this Deed;
- (2) where any Asset is derived from any other Asset (whether cash or otherwise), such derivative asset shall be applied in the records and accounts of the Fund to the same Sub-Fund as the Asset from which it was derived and on each re-valuation of an Asset the increase or diminution in value shall be applied to the relevant Sub-Fund;
- (3) in the case of any Asset (or amount treated as a notional asset) which the Depositary does not consider as attributable to a particular Sub-Fund or Sub-Funds, the Manager, acting in good faith and with due care and diligence, shall have discretion to determine the basis upon which any such Asset shall be allocated between Sub-Funds and the Manager shall have the power at any time and from time to time, subject to the approval of the Depositary, to vary such basis provided that the approval of the Depositary shall not be required in any case where the Asset is allocated between all Sub-Funds pro rata to their Net Asset Values at the time when the allocation is made;
- (4) the Manager, acting in good faith and with due care and diligence, shall have discretion to determine the basis upon which any liability not attributable to a particular Sub-Fund shall be allocated between Sub-Funds (including conditions as to the subsequent re-allocation thereof if circumstances so permit) and shall be entitled at any time and from time to time to vary such

basis, provided that the approval of the Depositary shall not be required in any case where a liability is allocated to the Sub-Fund or Sub-Funds to which in the opinion of the Manager it relates or if in the opinion of the Manager it does not relate to any particular Sub-Fund or Sub-Funds, between all the Sub-Funds pro rata to their Net Asset Values, provided that, when any costs or expenses or liabilities are incurred by the Manager or the Depositary and are specifically attributable to a particular Sub-Fund they will be borne by that Sub-Fund; where they are not specifically attributable to a Sub-Fund, such costs, expenses or liabilities will be borne by each Sub-Fund, or as the case may be by the Sub-Funds in question, in the proportion in which the Net Asset Value of each such Sub-Fund bears to the aggregate Net Asset Value of the Sub-Fund or Sub-Funds in question as applicable, as at the date that such costs, expenses or liabilities are incurred, or in such other manner as is most equitable in the opinion of the Manager and approved by the Depositary; and

- (5) the Assets of each Sub-Fund shall belong exclusively to that Sub-Fund, shall be recorded in the books and records maintained for the Fund as being held for that Sub-Fund and shall be segregated from the Assets of other Sub-Funds and from the assets of either the Depositary, the Manager or any of their delegates or affiliates and shall not be used to discharge directly or indirectly the liabilities of or claims against any other Sub-Fund and shall not be available for any such purpose. The Assets of the Fund shall be entrusted to the Depositary for safekeeping and all financial instruments that can be registered in a financial instruments account opened in the Depositary's books will be registered in the Depositary's books within segregated accounts in accordance with the principles set out in Article 16 of Commission Directive 2006/73/EC, opened in the name of the Fund or the Manager acting on behalf of the Fund, so that they can be clearly identified as belonging to the Fund in accordance with the applicable law at all times.

- (F) Binding nature of terms and conditions

The terms and conditions of this Deed shall be binding on each Unitholder and all persons claiming through him as if he had been a party hereto. By acquiring Units, each Unitholder agrees to be bound by the terms of this Deed.

- (G) Copies of Deed

A copy of this Deed shall be made available for inspection at the registered office of the Manager (which as of the date of this Deed is 70 Sir John Rogerson's Quay, Dublin 2, Ireland) at all times during usual business hours and shall be supplied by the Manager to any person on application free of charge.

- (H) UCITS Regulations

The business of the Fund will be carried out in compliance with the provisions of the UCITS Regulations. The UCITS Regulations are binding on the Manager, the Depositary and the Unitholders and each shall observe them in carrying out its obligations under this Deed.

### **3.00 UNITHOLDERS AND ISSUE OF UNITS**

- 3.01 The Manager shall have the exclusive right to effect for the account of the relevant Sub-Fund or Sub-Funds the creation and issue of such number of Units as the Manager may, at its sole discretion, from time to time determine for cash at prices ascertained in accordance with the following provisions of this Clause.
- 3.02 Every Unit shall be issued as a Unit in a Sub-Fund or a Class and shall be identified by name as such. Upon the issue of a Unit, the Manager shall allocate the proceeds of such issue to the appropriate Sub-Fund.
- 3.03 Each Unit represents an undivided co-ownership interest of a Unitholder as tenant in common with the other Unitholders in the Assets of a Sub-Fund. No Unit shall confer any interest or share in any particular part of the Assets of a Sub-Fund.
- 3.04 The liability of each Unitholder shall be limited to the issue price of Units for which it has agreed to subscribe. Except to the extent expressly provided in this Deed, no Unitholder shall incur or assume any liability or be required to make any payment to the Depositary or the Manager in respect of the Units held by him. By acquiring Units, each Unitholder agrees to be bound by the terms of this Deed.
- 3.05 No voting rights shall attach to the Units and no meetings of Unitholders shall be held. Neither the Unitholders nor their heirs or successors shall have rights with respect to the representation and management of the Fund or any Sub-Fund, and their death, incapacity, failure or insolvency shall have no effect on the existence of the Fund or any Sub-Fund.
- 3.06 Each Unit is indivisible with respect to the rights conferred on it.
- 3.07 The Manager shall, before the initial issue of Units in any Sub-Fund determine the time and terms upon which the initial allotment and issue of Units of that Sub-Fund shall be made including, but not limited to, the Initial Offer Period, the Initial Price(s) and any applicable dealing deadlines. The Initial Price per Unit at which the allotment of Units shall be made shall be determined by the Manager and by adding to the Initial Price such sum as the Manager in its absolute discretion may from time to time determine as an appropriate provision for Duties and Charges in respect of the allotment and issue of the Units and making such other adjustment thereto as the Manager may from time to time determine subject always to the resulting total being adjusted up to the nearest unit of the currency in which such Units are designated where the amount so determined is equal to or greater than half of the relevant unit or down to the nearest unit where the said amount is less than half of that unit ("unit" for these purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency).
- 3.08 Following the Initial Offer Period of a Sub-Fund, the allotment and issue of Units shall be made at the Subscription Price per Unit which shall be ascertained by determining the Net Asset Value per Unit in accordance with Clause 9 as at the Valuation Point on the relevant Dealing Day and adding thereto such sum as the Manager in its absolute discretion may from time to time determine as an appropriate provision for Duties and Charges in respect of the allotment and issue of the Units and making such other adjustment thereto as the Manager may from time to time determine subject always to the resulting total being adjusted up to the nearest unit of the currency in which such Units are designated where the amount so determined is equal to or greater than half of the relevant unit or down to the nearest unit where the said

amount is less than half of that unit ("unit" for these purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency). Notwithstanding any other provisions of this Deed, in calculating the Subscription Price per Unit, the Manager in its absolute discretion may on any Dealing Day where there are net subscriptions, adjust the Subscription Price per Unit by adding an anti-dilution levy to cover the dealing costs and preserve the value of the underlying Assets of the relevant Sub-Fund.

- 3.09 The Manager shall, before the initial issue of Units in any Sub-Fund, determine the time and terms upon which the initial allotment of Units of that Sub-Fund shall be made.
- 3.10 Any subsequent issue of Units shall be effected at a price equal to the Net Asset Value per Unit of the relevant Class or Sub-Fund on the Dealing Day on which Units are to be issued. The price at which Units may be issued shall be rounded to such number of decimal places as the Manager may determine. Any such sum will be paid to the relevant Sub-Fund.
- 3.11 The Manager shall be entitled to impose a sales charge of up to 5% of the Net Asset Value of Units to be issued.
- 3.12 Units will be issued effective on the Dealing Day on which they are purchased.
- 3.13 The Manager may operate a preset dilution levy in respect of the Units in each of the Sub-Funds. The purpose of the preset dilution levy is to ensure that all Unitholders are treated equally by ensuring that the cost of investing subscription monies is borne by the Unitholder who has contributed those subscription monies for investment, or the cost of selling Assets of the Sub-Fund in order to pay redemption proceeds is borne by the Unitholder who redeemed Units in the Sub-Fund. The preset dilution levy is paid to the relevant Sub-Fund. A maximum preset dilution levy of 5% of subscription monies and 3% of redemption proceeds may be applied.
- 3.14 The Manager may also operate an anti-dilution levy in respect of Units in each of the Sub-Funds. In calculating the subscription/redemption price for the Units of each Class in the Sub-Funds the Manager may on any Dealing Day when there are net subscriptions/redemptions adjust the subscription/redemption price by adding/deducting an anti-dilution levy to cover dealing costs and to preserve the value of the underlying Assets of the Sub-Fund. The Manager will only operate an anti-dilution levy in circumstances where (i) no preset dilution levy is applied for the Units of a Sub-Fund; or (ii) the operation of a preset dilution levy is not sufficient to fully capture the dealing costs associated with net subscriptions or net redemptions (as applicable), and such anti-dilution levy will only be applied to cover any dealing costs which are not met by the application of the preset dilution levy.
- 3.15 Any subsequent issue of Units shall be made by the Manager or its delegate only on a Dealing Day. Any person applying for Units shall complete an application form and any other documentation in such form as the Manager or its authorised agent may from time to time prescribe and shall comply with such conditions as may be prescribed by the Manager which may include the provision of such information or declarations as the Manager may require as to the identity, status and residence of an applicant and otherwise as the Manager may require, including, without limitation, for the avoidance of any doubt all Tax Documentation or other tax-related information deemed necessary or appropriate by the Manager in order for it to determine whether any person is eligible for a particular Sub-Fund or Class of Units of the Sub-Fund.

- 3.16 All applications must be received by the Manager or its authorised agent at its place of business for the purpose of this Deed by such time as may be specified in the then current Prospectus issued in respect of the Fund. Any application received after the time so specified shall be deemed to have been made in respect of the Dealing Day next following the relevant Dealing Day provided that the Manager shall have discretion in exceptional circumstances to accept any application received after such time but prior to the relevant Valuation Point. The Manager shall have absolute discretion, to accept or reject in whole or in part any application for Units without assigning any reason therefor. Any Class of Units may be closed for subscription temporarily or permanently at the discretion of the Manager. Where an application for Units is rejected, the subscription monies shall be returned to the investor at the investor's risk and without interest. Fractions of Units (calculated to such number of decimal places as the Manager may determine at its discretion and as disclosed in the Prospectus) may be issued at the discretion of the Manager. Such fractional Units shall be entitled to participate in the net Assets attributable to the relevant Sub-Fund.
- 3.17 Persons wishing to subscribe for Units shall ensure receipt by the Manager of the price payable therefor in accordance with this Deed and, in the event of late settlement, may be required to compensate the Manager for the amount of any loss arising as a result, which shall be conclusively determined by the Manager and otherwise shall comply with such terms and conditions as the Manager may from time to time determine.
- 3.18 Applications for Units shall be accepted in the currency of denomination of the relevant Class or such other currency as may be specified in the Prospectus unless the Manager otherwise agrees to accept subscriptions in any freely convertible currency approved by the Manager, in which case such subscriptions will be converted into the relevant currency of denomination of the relevant Class or such other currency as will be specified in the Prospectus. Monies subscribed in a currency other than the currency of denomination of the relevant Class or such other currency as may be specified in the Prospectus will be converted by the Manager or its delegate to the currency of denomination of the relevant Class at what the Manager considers to be the appropriate exchange rate and such subscription shall be deemed to be in the amount so converted net of all applicable bank charges. No Units shall be issued unless subscription monies in respect of such Units have been paid into the Assets of the Fund within the usual time limits. Where provided for in the Prospectus in respect of a Sub-Fund, allotment of Units may take place provisionally notwithstanding that cleared funds have not been received by the Manager or its authorised agent.

If subscription monies in cleared funds have not been received by the Manager or its delegate within such reasonable time as is specified in the Prospectus, the Manager or its delegate shall have the right to cancel any allotment and/or charge the applicant interest at such rate as may be disclosed in the Prospectus from time to time and other losses, charges or expenses suffered or incurred by the Manager as a result of late payment or non-payment of subscription monies and the Manager shall have the right to mandatorily redeem or sell all or part of the applicant's holding of Units in order to meet such charges. In addition, the applicant shall indemnify the Fund and the Manager for any loss suffered by the Fund or the Manager as a result of the applicant's failure to transmit the subscription monies in a timely fashion. In addition, the register in respect of the relevant Sub-Fund may be corrected in the event that an applicant has been entered on the register and the provisional allotment is subsequently cancelled.

All subscription monies received by the Depositary for the account of the Fund shall be held by the Depositary as part of the Assets of the relevant Sub-Fund. Following receipt by the

Depository of monies so payable, a written confirmation of entry on the Register shall be issued by the Manager or its delegate to the Unitholder confirming its holding of Units and indicating its Registration Number. The Manager may decline to accept any application for the issue of Units without assigning any reason therefor and may cease to offer Units in the Fund for allotment or subscription for a definite period or otherwise.

To be entered on the Register, Unitholders must apply for, or acquire, Units in accordance with the requirements of the Manager as set out in the Prospectus.

3.19 The Manager or its delegate may, at its discretion, from time to time make arrangements for the issue of Units to any person by way of exchange for investments subject to and in accordance with the following provisions:

- (i) Units shall not be issued until the investments shall have been vested in, and / or arrangements have been made to vest the assets in, the Depository or its nominees or delegates to the Depository's satisfaction and Units may not be issued in exchange for investments unless title to such investments has been delivered;
- (ii) the nature of the investments is such that they would qualify as Investments for the relevant Sub-Fund in accordance with the investment objectives, policies and restrictions of the relevant Sub-Fund;
- (iii) subject to the foregoing any such exchange shall be effected on terms that the number of Units to be issued shall be the number which would have been issued for cash at the current Net Asset Value against payment of a sum equal to the value of the Investments transferred less such sum as the Manager may consider represents an appropriate provision for any Duties and Charges to be paid out of the Assets of the relevant Sub-Fund in connection with the vesting of the investments;
- (iv) the investments to be transferred to the Fund for the account of the relevant Sub-Fund shall be valued on such basis as the Manager may decide so long as such value does not exceed the highest amount that would be obtained on the date of the exchange by applying the method of calculating the value of Investments as set out in Clause 11.00;
- (v) there may be paid to the incoming Unitholder out of the Assets of the relevant Sub-Fund a sum in cash equal to the value at the current price of any fraction of a Unit excluded from the calculation aforesaid; and
- (vi) the Depository is satisfied that the terms of such exchange are not such as are likely to result in any material prejudice to the existing Unitholders.

3.20 Units in any Class within each Sub-Fund are issued in registered form only.

3.21 The issue of Units by the Manager in such Sub-Fund shall be temporarily suspended during any period when the calculation of the Net Asset Value of the relevant Sub-Fund or attributable to a Class is suspended by the Manager in circumstances set out in Clause 10.00.

3.22 The Manager may at any time require a Unitholder to update or furnish additional tax or other documentation as it may reasonably consider necessary or appropriate for the Unitholder's

continued eligibility for a particular Sub-Fund or Class of Units of the Sub-Fund, including but not limited to, when a particular tax form or certification expires or otherwise becomes obsolete, invalid, or incorrect.

3.23 The Manager may impose such restrictions as it may think necessary for the purpose of ensuring that no Units are acquired or held directly or beneficially by:

- (i) any person in breach of the law or requirements of any country or governmental authority by virtue of which such person is not qualified to hold Units including, without limitation, any exchange control regulations;
- (ii) any person or persons in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Manager to be relevant) which, the Manager determines in its commercially reasonable discretion may result or is likely to result in adverse tax, fiscal, legal, regulatory or pecuniary consequences or material administrative disadvantage for the Fund or the relevant Sub-Fund or its Unitholders;
- (iii) any U.S. Person or a person holding Units for the account of a U.S. Person;
- (iv) any person who is not an Eligible Investor or a person holding Units for the account of any person who is not an Eligible Investor; or
- (v) any person who does not supply any information or declarations required under this Deed or the Prospectus within seven days of a request to do so by the Manager or provides false information or declarations or presentations.

and the Manager may reject in its discretion any application for Units by any persons who are so excluded from purchasing or holding Units and pursuant to Sub-Clause 3.26 below at any time redeem Units held by Unitholders who are so excluded from purchasing or holding Units.

Any person who becomes aware that it is holding Units in contravention of any of the provisions of this Deed of Constitution and who fails to deliver for redemption its Units pursuant to the above provisions or who fails to make the appropriate notification to the Manager, shall indemnify and hold harmless each of the Directors, the Fund, the Manager, the Administrator, the Depositary, the Investment Manager and the Unitholders (each an "Indemnified Party") from any claims, demands, taxes, proceedings, liabilities, damages, losses, costs and expenses directly or indirectly suffered or incurred by such Indemnified Party arising out of or in connection with the failure of such person to comply with its obligations pursuant to any of the provisions of the Deed of Constitution.

3.24 The Manager shall be entitled to assume in good faith without enquiry that none of the Units are held in such a way as to entitle the Manager to give a notice in respect thereof pursuant to Sub-Clause 3.26 below provided that the Manager may upon an application for Units or at any other time and from time to time require such evidence and/or undertakings to be furnished to the Manager in connection with the matters stated in Sub-Clause 3.19 as they shall in its discretion deem sufficient.

3.25 If a person becomes aware that it is holding or owning Units in contravention of Sub-Clause 3.23 it shall forthwith in writing request the Manager to redeem such Units in accordance with Clause 13.00 unless it has already received a notice under Sub-Clause 3.27.



- 3.26 If it shall come to the notice of the Manager or if the Manager shall have reason to believe that any Units are owned directly or beneficially by any person or persons in breach of any restrictions imposed by the Manager, the Manager shall be entitled to (i) give notice (in such form as the Manager deems appropriate) to such person requiring him to request in writing the redemption of such Units in accordance with Clause 13.00 and/or (ii) appropriate, compulsorily redeem and/or cancel such number of Units held by such person as is required to discharge and may apply the proceeds of such compulsory redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Units by such person including any interest or penalties payable thereon.
- 3.27 If any person upon whom such a notice is served as aforesaid does not within 30 days after such notice has been served request in writing (or by such other means including electronic means, as may be specified in the Prospectus) the Manager to redeem the relevant Units it shall be deemed forthwith upon the expiration of the said 30 day period to have requested the redemption of all the Units the subject of such notice and the Manager shall be deemed to be appointed its attorney with authority to appoint any person to sign on its behalf such documents as may be required for the purposes of the redemption. To any such redemption the provisions of Clause 13.00 shall apply subject to Sub-Clause 3.29 below save that the deemed request to redeem the Units may not be withdrawn notwithstanding that the determination of the Net Asset Value of the relevant Fund or Sub-Fund may have been suspended under Clause 10.00 of this Deed. The Manager may apply the proceeds of such redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Units by such person including any interest or penalties payable thereon.
- 3.28 Settlement of any redemption effected pursuant to Sub-Clause 3.26 or 3.27 hereof, shall be made by depositing the redemption monies or proceeds of sale, by whatever means the Manager deems appropriate, in a bank for payment to the person entitled subject to such consents as may be necessary being obtained. Upon deposit of the redemption monies as aforesaid such person shall have no further interest in such Units or any of them or any claim in respect thereof except the right to claim without recourse to the Manager the redemption monies so deposited without interest.
- 3.29 Without prejudice to Clause 32.06, any person or persons to whom Sub-Clauses 3.24, 3.25, 3.26, 3.27 or 3.28 shall apply shall indemnify the Fund, the relevant Sub-Fund, the Directors, the Manager, the Depositary, the Administrator, the Investment Manager, the Sub-Investment Managers and the other Unitholders for any loss suffered by it or them as a result of such person or persons acquiring or holding Units in the Fund.
- 3.30 If at any time the Manager determines, in its sole discretion, that an incorrect number of Units was issued to a Unitholder because the Net Asset Value in effect on the Dealing Day was incorrect, the Manager may, if too few Units were issued, issue such number of Units to such Unitholder as is necessary to increase the number of Units held by such Unitholder to the number of Units which would have been held had the Units been issued at the correct Net Asset Value on the relevant Dealing Day, and, if too many Units were issued, may redeem such number of that Unitholder's Units as is necessary to reduce the number of Units held by that Unitholder to the number of Units which would have been held had the Units been issued at the correct Net Asset Value on the relevant Dealing Day.
- 3.31 The Manager may disclose information about Unitholders to taxing authorities or other parties as necessary to comply with applicable law or regulation.

3.32 The Manager reserves the right not to accept any subscriptions for Units until the Administrator receives the original signed application form and all of the necessary anti-money-laundering checks are completed. The Manager reserves the absolute right to reject a subscription order for any reason. The Manager will notify an applicant if it rejects the applicant's subscription request. The Manager and Administrator are under no duty, however, to give notification of any defects or irregularities in the delivery of subscription payments, nor shall either of them incur any liability for the failure to give any such notification, however the Manager and the Administrator will endeavour to contact the applicant in the event of defects or irregularities in the delivery of subscription payment. The Manager also reserves the general right to reject any subscription request, including switches from other Sub-Funds which would impact other Unitholders. Any subscription for Units received or deemed to be received by the Fund may be withdrawn only with the consent of the Manager.

3.33 Unitholders may be grouped into Classes of Units based on, among other things, commonality of withholding and reclaim tax profiles and investor attributes (i.e. form and country of residence). On each Business Day, the Administrator shall calculate the proportion of Assets of the relevant Sub-Fund owned by each Tax Class Unit. The Administrator assigns specific tax tables to each Tax Class Unit reflecting the tax profile of those Unitholders and the pooling technology allows detailed records to be maintained at both the relevant Sub-Fund and Tax Class Unit level.

3.34 The Manager reserves the right to limit the issue of Units in any Sub-Fund or Class of Units where the liquidity within the Sub-Fund or Class is deemed to be detrimental to its performance by closing the Sub-Fund or Class to new subscriptions or switches into it, either from existing Unitholders or new applicants or both. No interest will be paid on refunds due to cancellations.

#### 4.00 PERMITTED INVESTMENTS

4.01 The Assets shall be invested only in investments permitted under the UCITS Regulations and shall be subject to the restrictions and limits set out in the UCITS Regulations, the Central Bank UCITS Regulations and in the Prospectus and any derogations permitted by the Central Bank.

4.02 With the exception of permitted investments in unlisted securities and off exchange derivative instruments, investment in securities or financial derivative instruments will be made only in securities or financial derivative instruments which are listed or traded on a stock exchange or market (including derivative markets) which meets with the regulatory criteria (regulated, operating regulatory, is recognised and open to the public) and which is listed in the Prospectus.

4.03 The Manager or the Investment Manager or a Sub-Investment Manager (where such authority has been delegated to the Investment Manager or a Sub-Investment Manager respectively), shall, in respect of and for the benefit of each Sub-Fund:

- (i) have the power to acquire or utilise derivative instruments of any description under any conditions and within any limits applicable to the relevant Sub-Fund laid down by the Central Bank from time to time; and
- (ii) have the power to employ techniques and instruments to provide protection against exchange rate risks, interest rate risks, other general market risks or other

risks at Sub-Fund or Class level. Any currency hedging investment employed at Class level will be clearly attributable to a separate Class and the context and limits of such hedging will be disclosed in the Prospectus;

in each instance, under the conditions and within the limits laid down by the Central Bank and the UCITS Regulations.

- 4.04 For the purpose of providing margin or collateral in respect of transactions in derivative instruments, the Depositary or the Manager or the Investment Manager (where such authority has been delegated to the Manager or the Investment Manager) shall be entitled:
- (a) to transfer, mortgage, charge or encumber any investments or cash forming part of the relevant Sub-Fund; and/or
  - (b) to vest any such investments in the relevant exchange or market or any company controlled by such exchange or market and used for the purpose of receiving margin and/or cover or in a nominee of the Depositary, or as the case may be, the Manager or Investment Manager.
- 4.05 A Sub-Fund may, in accordance with the requirements of the Central Bank, replicate the composition of a stock or debt securities index, which is recognised by the Central Bank.
- 4.06 A Sub-Fund may hold ancillary liquid assets.
- 4.07 Subject to the restrictions and limits set out in the UCITS Regulations and to the approval of the Central Bank, a Sub-Fund may invest up to 100% of its net assets in different transferable securities and money market instruments issued or guaranteed by any EU Member State, its local authorities, non-EU Member States or public international bodies of which one or more EU Member States are members. The individual issuers must be listed in the Prospectus and may be drawn from the following list: OECD Governments, 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, European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, European Central Bank, 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 and Tennessee Valley Authority, Straight-A Funding LLC and such other governments, local authorities and public bodies as the Central Bank may permit pursuant to the UCITS Regulations.
- 4.08 The Manager, on behalf of the Fund, may, with the prior approval of the Central Bank and subject to the UCITS Regulations, form one or more wholly-owned companies (a "Subsidiary" or "Subsidiaries") if the formation of such a Subsidiary is, in the opinion of the Manager, desirable to the Fund for investment purposes or to enable the Fund to avail of any pecuniary tax or other benefits or to comply with the laws or regulations of any jurisdiction or otherwise for efficient portfolio management.

A Subsidiary shall be capitalised and/or financed on such basis as the Manager and/or the relevant subsidiary undertakings or entities may from time to time approve. The investment and borrowing restrictions applicable to the Fund will take effect as if all the assets of, and all the liabilities of, such Subsidiary were held or owned directly on behalf of the Fund.

The Assets of a Sub-Fund may be invested in the Subsidiaries provided that all the shares of any such Subsidiary shall be held by the Depositary for the Fund for the account of the Sub-Fund with the intention that transactions for the Sub-Fund (including, without limitation, futures and options transactions) may be carried out by the Subsidiary, with all Assets being held by the Depositary for the account of the Subsidiary.

- 4.09 A Sub-Fund may have an investment policy with the aim of replicating the composition of an index in accordance with the requirements of the Central Bank.

#### 5.00 **BORROWING POWERS**

- 5.01 Subject to any limits imposed by the UCITS Regulations and the limits laid down by the Central Bank, the Manager may at any time borrow money for the account of the Fund provided such borrowing is temporary borrowing in an amount not exceeding 10% of the Net Asset Value of the Fund (including borrowing for the purpose of repurchasing Units) and may mortgage, charge or pledge or instruct the Depositary to mortgage, charge or pledge the undertaking, property and Assets of the Fund or any part thereof.

The Manager may make and vary arrangements for the account of any Sub-Fund to acquire foreign currency by means of a back-to-back loan and such back-to-back loan shall not count as borrowing for the purposes of this Clause. The Manager shall ensure that any Sub-Fund with foreign currency borrowings which exceed the value of the back-to-back loan deposit as part of a back-to-back loan arrangement treats that excess as borrowing for the purposes of the UCITS Regulations.

Any interest on any borrowing effected under this Clause, any expenses incurred in negotiating, entering into, varying and carrying into effect with or without variation and in terminating the borrowing arrangements shall be payable out of the relevant Sub-Fund(s).

#### 6.00 **DEALINGS BY THE MANAGER, THE DEPOSITARY AND THE INVESTMENT MANAGERS**

- 6.01 There is no prohibition on dealings in the Assets of any Sub-Fund by the Manager, the Depositary or the Investment Manager or Associates of the Manager, the Depositary, the Administrator or the Investment Manager or their respective officers, directors or executives, provided that the transaction is consistent with the best interests of Unitholders and is negotiated at arm's length, and:

- (i) a certified valuation of such transaction by a person approved by the Depositary (or in the case of transactions involving the Depositary, the Manager) as independent and competent has been obtained.
- (ii) such transaction has been executed on best terms reasonably obtainable on an organised investment exchange or other Regulated Market in accordance with the rules of such exchange or market; or
- (iii) where the conditions set out in (i) and (ii) are not practical, such transaction is executed on terms which the Depositary (or in the case of transactions involving

the Depositary, the Manager) is satisfied conform to the principle outlined in paragraph 6.01(i) above.

6.02 Subject to Sub-Clause 6.01 and the requirements of the Central Bank, the Manager or any Associate of the Manager, or the Investment Manager may purchase and sell Investments for the account of each Sub-Fund or otherwise effect a transaction for the account of a Sub-Fund including in circumstances in which either of them has a material interest and shall be entitled to charge to the Sub-Fund commissions and/or fees on such transactions and to accept payment of and to retain for their own absolute use and benefit all commissions and/or fees which they may derive from or in connection with any such purchase or sale and shall not be under any liability to account to the Fund in respect thereof.

6.03 The Manager shall (without incurring any liability for failing so to do) endeavour to procure that no person who is a director of the Manager or engaged in the management of the Manager or any subsidiary or holding company or subsidiary of a holding company of the Manager shall carry out transactions for himself or make a profit for himself from transactions in any Assets of the Sub-Fund.

#### 7.00 THE REGISTERS

7.01 There shall be a Register in respect of each Sub-Fund listing the Unitholders who have been issued with Units in registered form in the Sub-Fund or any Class. The inscription of the Unitholder's name in the Register of Units evidences its entitlement to such registered Units.

7.02 All Units which have been issued shall be represented by entry in the relevant Register of the relevant Sub-Fund.

7.03 The Register of each Sub-Fund shall be kept by or under the control of the Manager at its registered office (or the registered office of its delegate) or at such other place as the Manager may think fit. The Manager or its delegate shall (or shall procure that its delegate shall):

- (a) maintain the Register;
- (b) supply on request any information or explanation that the Central Bank might require in relation to the Register and the conduct thereof; and
- (c) give the Central Bank and its representatives access at all times, on the giving of reasonable notice, to the Register and to all subsidiary documents and records;

provided that if the Registers are kept with the assistance of magnetic tape or other electronic recording, the output from such tape or other recording kept in Ireland and not the recording itself shall constitute the Registers.

7.04 The Register of each Sub-Fund shall contain:

- (a) the names and addresses or registered offices of the Unitholders to whom Units have been issued;
- (b) the number of Units held by every such Unitholder together with the Registration Number of such Unitholder issued in respect thereof;

- (c) the date on which the name of every such Unitholder was entered in respect of the Units standing in its name and the date of cessation of ownership; and
- (d) the name of the Class to which the Units have been issued, where applicable.

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

- (a) the joint holders of any Units shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such Units;
- (b) anyone of such joint holders of Units may give effectual receipts for any distribution, bonus or return of capital payable to such joint holders;
- (c) only the first-named of the joint holders of a Unit shall be entitled to delivery of the confirmation of entry on the Register relating to such Unit. Any confirmation of entry on the Register delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
- (d) the instruction or approval or consent as the case may be of the first-named of joint holders shall be accepted to the exclusion of the instruction or approval or consent of the other joint holders; and
- (e) for the purpose of the provisions of this Deed, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.

7.06 The Register of each Sub-Fund shall be conclusive evidence as to the persons respectively entitled to the Units entered therein and no notice, whether actual or constructive, of any trust, express, implied or constructive, shall be binding on the Manager.

7.07 Any change of name or address on the part of any Unitholder entered in the Register of a Sub-Fund shall forthwith be notified in writing to the Manager or its delegate which, on being satisfied thereof and on compliance with all such formalities as it may require, shall alter the Registers of that Sub-Fund or cause it to be altered accordingly.

7.08 Each of the Depositary and the Manager and their delegates shall recognise a Unitholder entered in the Register of a Sub-Fund as the absolute owner of the Units in respect of which it is so registered and shall not be bound by any notice, whether actual or constructive, to the contrary nor be bound to take notice of or to see to the execution of any trust, express, implied or constructive, and all persons may act accordingly and neither the Depositary nor the Manager or their delegates shall save as herein otherwise provided or ordered by a court of competent jurisdiction or by statute required be bound to recognise (even when having notice thereof) any trust or equity affecting the ownership of such Units or the rights incident thereto. The dispatch to a Unitholder of any monies payable in respect of the Units held by him shall be a good discharge to the Depositary and the Manager and their delegates.

## 8.00 CERTIFICATES

No certificates of ownership shall be issued.

## **9.00 DETERMINATION OF NET ASSET VALUE**

- 9.01 The Manager shall determine the Net Asset Value of each Sub-Fund and the Net Asset Value per Unit of each Class in each Sub-Fund on each Valuation Point, and at least fortnightly, in accordance with the following provisions.
- 9.02 The Net Asset Value of each Sub-Fund shall be determined as at each Valuation Point by ascertaining the value of the Assets held by the Depositary for the account of that Sub-Fund calculated pursuant to clause 11.01, and deducting from such amount the liabilities of the Fund for the account of that Sub-Fund calculated pursuant to clause 11.03.
- 9.03 In the event that a Sub-Fund is further divided into different Classes, the amount of the Net Asset Value of the Sub-Fund attributable to a Class shall be determined by establishing the number of Units issued in the Class at the relevant Valuation Point and by allocating the relevant fees and expenses to the Class and making adjustments to take account of Gross Income Payments or other distributions paid out of the Sub-Fund, if applicable, and apportioning the Net Asset Value of the Sub-Fund accordingly. Where foreign exchange hedging is utilised for the benefit of a particular Class, its costs and related liabilities and/or benefits shall be for the account of the Class only. Accordingly, such costs and related liabilities and/or benefits will be reflected in the Net Asset Value per Unit of any such Class.
- 9.04 The Net Asset Value per Unit of each Sub-Fund or Class within a Sub-Fund shall be determined at each Valuation Point to the nearest two decimal places in the Base Currency, or as otherwise specified in the Prospectus, by dividing the Net Asset Value of that Sub-Fund attributable to that Class by the number of Units of that Sub-Fund or Class within a Sub-Fund in issue.

## **10.00 TEMPORARY SUSPENSION OF VALUATIONS AND DEALINGS**

- 10.01 The Manager may at any time with prior notification to the Depositary, temporarily suspend the issue, valuation, purchase or redemption of Units during:
- (a) any period when any Regulated Market on which a substantial portion of the Assets for the time being comprised in the relevant Sub-Fund are quoted, listed or dealt in is closed otherwise than for ordinary holidays, or during which dealings in any such Regulated Market are restricted or suspended;
  - (b) any period when, as a result of political, military, economic or monetary events or other circumstances beyond the control, responsibility and power of the Manager, the disposal or valuation of Assets for the time being comprised in the relevant Sub-Fund cannot, in the opinion of the Manager, be effected or completed normally or without prejudicing the interest of Unitholders;
  - (c) any breakdown in the means of communication or computing normally employed in determining the value of any Assets for the time being comprised in the relevant Sub-Fund or during any period when for any other reason the value of Investments for the time being comprised in the relevant Sub-Fund cannot, in the opinion of the Manager, be promptly or accurately ascertained;
  - (d) any period when the Sub-Fund is unable to repatriate funds for the purposes of making redemption or purchase payments or during which the realisation of Assets for the time being comprised in the relevant Sub-Fund, or the transfer or payment of

funds involved in connection therewith cannot, in the opinion of the Manager, be effected at normal prices or normal rates of exchange;

- (e) any period when, as a result of adverse market conditions, the payment of redemption proceeds may, in the opinion of the Manager, have an adverse impact on the relevant Sub-Fund or the remaining Unitholders in such Sub-Fund;
- (f) any period after notice of the total redemption of the Units of any Sub-Fund or Class has been given or after a notice terminating the Sub-Fund has been issued;
- (g) any period when the issue, valuation, sale, purchase, redemption, repurchase and exchange of shares in any underlying fund in which a Sub-Fund has invested a substantial portion of its assets is suspended.
- (h) any period in which the redemption of the Units would, in the opinion of the Manager, result in a violation of applicable laws or
- (i) upon mutual agreement between the Manager and the Depositary for the purpose of the merger of the Fund or any Sub-Fund with another collective investment scheme or Sub-Fund thereof.

In addition, where specified in the Prospectus to apply in respect of a Sub-Fund, the Manager may at any time, with prior notification to the Depositary, temporarily suspend the issue, valuation, purchase, redemption and exchange of Units in the Sub-Fund during any period when the Manager determines it is in the best interests of Unitholders to do so.

10.02 Notice of any suspension pursuant to sub-Clause 10.01 shall be published by the Manager in such manner as the Manager may deem appropriate if in the opinion of the Manager it is likely to exceed fourteen (14) days. If in the opinion of the Manager the suspension is likely to exceed thirty days, it shall be notified as soon as practicable thereafter to any Unitholders affected by such suspension.

10.03 Any suspension pursuant to sub-Clause 10.01 shall be notified by the Manager immediately to the Central Bank and shall be notified without delay to such other authorities as may be deemed necessary or advisable by the Manager.

10.04 Requests for the issue, purchase or redemption of Units which have not been processed prior to the commencement of any period of suspension pursuant to sub-Clause 10.01 will be dealt with on the first Dealing Day on which the suspension has been lifted unless withdrawn prior to the lifting of any such suspension. Where possible, reasonable steps will be taken to bring any period of suspension to an end as soon as possible.

#### 11.00 VALUATION OF ASSETS

- (a) The assets of a Sub-Fund will be valued to the nearest two decimal places at the Valuation Point as follows:-
- (b) equity, fixed income and money market assets listed or traded on a Regulated Market (other than those referred to at (e) and (h) below) for which market quotations are readily available shall be valued at the last traded price on the principal exchange or market for such investment provided that the value of any investment listed on a Regulated Market but acquired or traded at a premium or at a discount outside or off



the relevant Regulated Market may be valued taking into account the level of premium or discount as at the date of valuation of the investment and the Depositary must ensure the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security. If for specific assets the last traded prices do not, in the opinion of the Manager, reflect their fair value, or are not available the value shall be estimated with care and in good faith by the Manager, approved for such purpose by the Depositary, in consultation with the relevant Investment Manager with a view to establishing the probable realisation value for such assets as at the Valuation Point;

- (c) if the assets are listed or traded on several Regulated Markets, the last traded price (in the case of equity assets) or the latest mid-market price (in the case of fixed income and money market assets) on the Regulated Market which, in the opinion of the Manager, constitutes the main market for such assets, will be used;
- (d) in the event that any of the investments are not listed or traded on any Regulated Market, such securities shall be valued at their probable realisation value as at the Valuation Point estimated with care and in good faith by the Manager (the Manager being approved by the Depositary as a competent person for such purpose) in consultation with the relevant Investment Manager.
- (e) Alternatively, the Manager in consultation with the relevant Investment Manager, may use such probable realisation value estimated with care and in good faith and as may be recommended by a competent professional appointed by the Manager or the relevant Investment Manager and approved for such purpose by the Depositary. Due to the nature of such unquoted securities and the difficulty in obtaining a valuation from other sources, such competent professional may be related to the relevant Investment Manager;
- (f) cash and other liquid assets will be valued at their face value with interest accrued, where applicable, up to the Valuation Point;
- (g) units or shares in open-ended and closed-ended collective investment schemes not valued in accordance with (a) above will be valued at the latest available net asset value as published by the collective investment schemes as at the Valuation Point, or, if unavailable at the probable realisation value, as estimated with care and in good faith and as may be recommended by a competent professional appointed by the Manager, the Investment Manager or a relevant Investment Manager and approved for the purpose by the Depositary;
- (h) the Directors may with the prior consent of the Depositary adjust the value of any of the Investments of the Company or permit some other method of valuation to be used if, having regard to currency, applicable rate of interest, maturity, marketability and/or such other considerations as they deem relevant, they consider that such adjustment is required to reflect more fairly the value of each of the relevant Investments;
- (i) The value of any Investment or cash expressed otherwise than in the Base Currency shall be converted into the Base Currency at the latest available exchange rate (whether official or otherwise) as at the relevant Valuation Point and any borrowing in a currency other than the Base Currency shall be converted into the Base Currency at an exchange rate (whether official or otherwise) which the Directors after consulting,

or in accordance with a method approved by, the Depositary deem appropriate in the circumstances;

- (j) exchanged traded derivative instruments will be valued at the settlement price for such instruments on such market as at the Valuation Point; if such price is not available such value shall be the probable realisation value estimated with care and in good faith by the Manager approved for such purpose by the Depositary. Over-the-counter derivative instruments will be valued on each Dealing Day at the settlement price as at the Valuation Point as provided by the counterparty on a daily basis and verified on a weekly basis by the Administrator (being independent from the counterparty), approved for such purpose by the Depositary. Forward foreign exchange contracts shall be valued with reference to the prevailing market maker quotations, namely, the price at which a new forward contract of the same size and maturity could be undertaken.

In the event of it being impossible, impractical or incorrect to carry out a valuation of a specific investment in accordance with the valuation rules set out in paragraphs (a) to (h) above, or if such valuation is not representative of the securities fair market value, the Manager is entitled to adopt an alternative valuation method which has been approved by the Depositary in order to reach a proper valuation of that specific investment.

Any value expressed otherwise than in the Base Currency (whether of an investment or cash) and any non-Base Currency borrowing shall be converted into the Base Currency at the rate (whether official or otherwise) which the Administrator deems appropriate in the circumstances.

Where a Class is designated in a currency other than the Base Currency, the Net Asset Value of Shares in that Class shall be calculated in the Base Currency and converted into the currency of designation of that Class at the rate (whether official or otherwise), which the Administrator deems appropriate in the circumstances. Changes in the exchange rate between the Base Currency of a Sub-Fund and such designated currency may lead to a depreciation of the value of such Shares as expressed in the designated currency.

Dividends, interest and capital gains (if any) which the Company receives with respect to its investments (other than securities of Irish issuers) may be subject to taxes, including withholding taxes, in the countries in which the issuers of investments are located. It is anticipated that the Company may not be able to benefit from reduced rates of withholding tax in double taxation agreements between Ireland and such countries. If this position changes in the future and the application of a lower rate results in a repayment to the Company, the Net Asset Value will not be re-stated and the benefit will be allocated to the existing Shareholders rateably at the time of the repayment.

In some cases, the Unitholders in the Fund may not be able to benefit from a reduction in the rate of withholding tax and may not therefore be able to prevent withholding taxes being deducted or be able to reclaim withholding taxes suffered in particular countries. If this position changes in the future and the application for a higher or lower rate results in an additional payment of tax or a repayment to the relevant Sub-Fund of the Fund respectively, the Net Asset Value will not be restated and the benefit or the cost will be allocated to the existing Unitholders rateably at the time of the adjustment.

11.02 In calculating the value of the Assets of a Sub-Fund or any part thereof and in dividing such value by the number of Units in issue and deemed to be in issue:

- (a) the Assets shall be valued by reference to the prices or values described in clause 11.01;
- (b) every Unit agreed to be issued by the Manager shall be deemed to be in issue on the relevant Valuation Point and the Asset attributable to each Sub-Fund shall be deemed to include not only cash and property in the hands of the Depositary for the account of that Sub-Fund but also the amount of any cash or other property to be received in respect of Units agreed to be issued in that Sub-Fund after deducting therefrom (in the case of Units agreed to be issued for cash) or providing for the Duties and Charges and preliminary charges and/or commissions to be deducted therefrom in accordance with the provisions of clause 3;
- (c) where Investments have been agreed to be purchased or sold but such purchase or sale has not been completed, such Investment shall be included or excluded and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase or sale had been duly completed;
- (d) where notice of a reduction of Units of a Sub-Fund by the cancellation of Units has been given by the Manager to the Depositary but such cancellation has not been completed, the Units to be cancelled shall be deemed not to be in issue and the Assets attributable to the relevant Sub-Fund shall be reduced by the amount payable to the Manager upon such cancellation;
- (e) there shall be added to the Assets held on behalf of any Sub-Fund any actual or estimated amount of any taxation of a capital nature which may be recoverable by that Sub-Fund;
- (f) there shall be added to the Assets held on behalf of any Sub-Fund a sum representing any interest or other income accrued but not received by that Sub-Fund (interest or other income being deemed to have accrued); and
- (g) there shall be added to the Assets held on behalf of any Sub-Fund the total amount (whether actual or estimated by the Manager) of any claims for repayment of any taxation levied on income including claims in respect of double taxation relief in respect of that Sub-Fund.

11.03 The liabilities of each Sub-Fund shall be deemed to include:

- (a) the total amount of any actual or estimated liabilities properly payable out of the Assets on behalf of that Sub-Fund including any outstanding borrowings of the Sub-Fund and all accrued interest, fees and expenses payable thereon (but excluding liabilities taken into account in determining the value of the Assets of the Sub-Fund) and any estimated liability for tax on unrealised gains;
- (b) such sum in respect of tax (if any) on net gains realised during the current Accounting Period prior to the valuation being made as, in the estimation of the Manager, will become payable;

- (c) the amount (if any) of any Gross Income declared by the Manager in respect of that Sub-Fund pursuant to clause 15.03 in respect of the last preceding Accounting Period but not distributed in respect thereof;
  - (d) the remuneration of the Manager, the Depositary and the Administrator, attributable to that Sub-Fund accrued but remaining unpaid together with value added tax, if any;
  - (e) the total amount (whether actual or estimated by the Manager) of any liabilities for taxation leviable on income of the Sub-Fund including income tax and corporation tax, if any (but not taxes leviable on capital or on realised or unrealised gains);
  - (f) the total amount of any actual or estimated liabilities for withholding tax (if any) payable on any of the Investments of the Sub-Fund in respect of the current Accounting Period; and
  - (g) the total amount (whether actual or estimated by the Manager) of any other liabilities properly payable out of the Assets held on behalf of the Fund.
- 11.04 Further, the Directors may determine that the Net Asset Value per Unit calculated in respect of a Sub-Fund on a Dealing Day on which there are net subscriptions into or redemptions from the Sub-Fund may be adjusted to avoid or reduce the dilutive effect of such dealing caused by the cost of acquiring or disposing of Investments, including, without limitation, dealing charges, taxes, and any spread between acquisition and disposal prices of Investments. Any such policy shall be applied consistently in respect of a Sub-Fund and in respect of all of the Investments of that Sub-Fund.
- 11.05 Without prejudice to Sub-Clause 17.01 hereof the Manager may delegate any of its powers, authorities and discretions in relation to the determination of the value of any Investment to a committee of the Directors or to any other duly authorised person and may delegate the calculation of Net Asset Value in accordance with the requirements of the Central Bank UCITS Regulations. In the absence of negligence or fraud or to comply with its obligations as set out in this Deed or in the UCITS Regulations, every decision taken by the Manager or any committee of the Directors or any duly authorised person on behalf of the Fund in determining the value of any Investment or calculating the Net Asset Value shall be final and binding on present, past or future Unitholders.
- 12.00 TRANSFER OF UNITS**
- 12.01 The transfer of Units in a Sub-Fund is not permitted.
- 13.00 REDEMPTION AND CANCELLATION OF UNITS**
- 13.01 The Manager shall at any time during the term of a Sub-Fund on receipt by it or by its duly authorised agent of a request in writing from a Unitholder redeem on any Dealing Day all or any part of its holding of Units in the relevant Sub-Fund or Class at the Net Asset Value per Unit of that Sub-Fund or Class less, if the Manager so determines, a provision for Duties and Charges. A redemption charge of up to 3% the Net Asset Value of Units to be redeemed may be deducted from the redemption price. The Manager may, at its discretion and subject to Sub-Clause 13.09, impose a minimum redemption amount in relation to any particular Sub-Fund.

- 13.02 Unless otherwise determined by the Manager, all requests to redeem under Sub-Clause 13.01 must be received by the Manager or its authorised agent at its place of business for the purpose of this Deed by such time and in such manner as may be specified in the then current Prospectus issued in respect of the Fund. Any request received after the time aforesaid shall be deemed to have been made in respect of the Dealing Day next following the relevant Dealing Day provided that the Manager shall have discretion to accept any request for redemption received after such time but prior to the relevant Valuation Point in exceptional circumstances.
- 13.03 Following redemption of Units, an amount equal to the Net Asset Value per Unit shall be payable out of the Assets of the relevant Sub-Fund and shall be paid no later than 10 Business Days after the dealing deadline (as may be specified in the Prospectus) in the Base Currency or the currency of denomination of the relevant Class to the Unitholder, or in the case of joint Unitholders, to the joint Unitholders or otherwise in accordance with any mandate of such joint Unitholders, subject to receipt by the Manager or its authorised agent of the relevant redemption documentation.
- 13.04 The Manager or its delegate shall on redemption of Units where appropriate remove the name of the Unitholder from the Register in respect of such Units and such Units shall be treated for any purposes of this Deed as cancelled and withdrawn.
- 13.05 Subject as hereinafter provided, a Unitholder shall not, without the consent of the Manager, be entitled to withdraw a request for redemption duly given in accordance with this Clause.
- 13.06 (i) The Manager may in its discretion, but subject to the consent of the redeeming Unitholder, satisfy any request for redemption of Units by the transfer to those Unitholders requesting redemption of Assets of the Sub-Fund in kind in satisfaction or part satisfaction of their redemption requests provided that no such transfer shall cause any material prejudice to the interests of the remaining Unitholders or to the redeeming Unitholder. Any Unitholder not wishing to receive a transfer of Assets may issue notice to the Manager requiring the Manager to arrange for the sale of the Assets and for payment to the Unitholder of the proceeds of same, net of all usual sale charges, and the Manager pay such proceeds within the time specified in the Prospectus. The Manager shall transfer to each relevant Unitholder that proportion of the Assets of the Sub-Fund which is then equivalent in value to the unitholding of the Unitholders then requesting redemption of their Units, the nature and type of the Asset to be transferred being determined by the Manager at its sole discretion subject to the approval of the Depositary, and for the foregoing purposes the value of the Assets shall be determined on the same basis as used in calculating the Net Asset Value of the Units being so redeemed. The Manager shall act in good faith and with due care and diligence with regard to its duties hereunder.
- (ii) In addition, where specified in the Prospectus to apply in respect of a Sub-Fund, the Manager will satisfy a request for a redemption of Units by the transfer of Assets of the Sub-Fund in specie to the redeeming Unitholder where such redemption in specie is requested by the Unitholder, provided that the Depositary is satisfied, in its absolute discretion, that such terms of exchange will not be such as are likely to result in any material prejudice to the interests of the remaining Unitholders or the redeeming Unitholder. Any such asset allocation is subject to the approval of the Depositary and, in the absence of such approval, no such redemption in specie shall be made.

In both of the above cases, Unitholders who receive redemption proceeds in specie will be responsible for liquidating any securities received, including bearing any transaction costs involved in the sale of such securities.

- 13.07 If outstanding redemption requests from Unitholders on any Dealing Day total in aggregate 10% of the Net Asset Value of a Sub-Fund on such Dealing Day or such higher amount as the Manager may from time to time determine and disclose in the Prospectus, the Manager, in consultation with the Investment Manager, shall be entitled at its discretion to refuse to redeem such number of Units in issue on that Dealing Day in respect of which redemption requests have been received in excess of 10% (or such higher amount as the Manager may from time to time determine and disclose in the Prospectus) of the Units of a Sub-Fund in issue as the Manager shall determine. If the Manager refuses to redeem Units for these reasons, the requests for redemption shall be reduced rateably and the Units to which each redemption request relates which are not redeemed shall be redeemed as if such redemption request was received on each subsequent Dealing Day, provided that the Manager shall not be obliged to redeem more than 10% of the Net Asset Value of Units of a Sub-Fund outstanding on any Dealing Day or such higher amount as the Manager may from time to time determine and disclose in the Prospectus, until all the Units to which the original request related have been redeemed. A Unitholder may withdraw its redemption request by notice in writing to the Administrator if the Manager exercises its discretion to refuse to redeem any Units to which the request relates.

The preceding paragraph shall not apply in the case of a redemption in specie made pursuant to Clause 13.06(ii) above.

For redemption orders of 5% or more in value of the total Units in a Sub-Fund in issue, the Manager may at its absolute discretion following reasonable notice to the redeeming Unitholder distribute underlying investments equivalent to the value of the Unitholder's Units, rather than cash, in satisfaction of the redemption, which action shall be made in good faith and shall not prejudice the interests of existing Unitholders. In such circumstances, the Unitholder has the right to instruct the Manager to sell such underlying investments on its behalf (the amount that the Unitholder receives after such a sale will be net of all usual sale charges). Unitholders who receive redemption proceeds in specie will be responsible for liquidating any securities received, including bearing any transaction costs involved in the sale of such securities.

- 13.08 The right of any Unitholder to request the redemption of Units of any Sub-Fund shall be temporarily suspended during any period when the calculation of the Net Asset Value of the relevant Sub-Fund or attributable to a Class is suspended by the Manager in the circumstances set out in Clause 10.00.
- 13.09 If the Manager, Depositary (or any of their delegates), the Fund, any Sub-Fund or any Unitholder becomes liable to account for tax in any jurisdiction as a result of a Unitholder (such term being deemed for the purpose of this clause as including former Unitholders) or beneficial owners or former beneficial owners of a Unit (i) having received a Gross Income Payment in respect of its existing Units; (ii) being treated as in receipt of income or gains; or (iii) having disposed or redeemed of its Units in any way (or being deemed to have so received the Gross Income Payment or income or gains, or being deemed to have so disposed or redeemed of its Units) (each (i) – (iii) a "Chargeable Event"), the Manager shall be entitled to deduct from any payment to a Unitholder arising on a Chargeable Event an amount equal to the appropriate tax and any interest or penalties thereon and/or appropriate, cancel or compulsorily redeem such

number of Units held by the Unitholder or beneficial owner as are required to discharge such liability. The relevant Unitholder shall indemnify and keep the Indemnified Parties indemnified against losses, actions, pleadings and claims and against all taxes, costs, demands and expenses which may be brought against, suffered or incurred by any of the Indemnified Parties which may arise or where the Indemnified Party becomes liable to tax or to account for tax in any jurisdiction on the happening of a Chargeable Event.

#### 14.00 SWITCHING OF UNITS

14.01 The following provisions shall have effect in relation to the switching of Units from one Sub-Fund to another Sub-Fund or from one Class to another Class within the same Sub-Fund:

- (a) Subject to the Units being in issue and being offered for sale and provided that the issue and redemption of Units has not been suspended in accordance with Clause 10.00, a holder of Units in one or more Sub-Funds or Classes (the "Original Units") may by notice to the Manager request the Manager to switch some or all of such Original Units into Units in one or more other Sub-Funds or Classes (the "New Units"). Such notice shall be effective only if accompanied by an application by the Unitholder in such form as the Manager may from time to time prescribe and at such time and in such minimum amounts as the Manager shall determine. The number of New Units to be issued will be calculated in accordance with the formula set out in the Prospectus.
- (b) On the Dealing Day next following the receipt of the switching form or on such earlier day as the Manager in its absolute discretion may determine and notify to Unitholders in advance, the Original Units shall be redeemed and the New Units shall be issued. The Original Units shall be redeemed at the price specified in Sub-Clause 13.01 and the number of New Units shall be equal to the number of Units in the relevant Sub-Fund or Sub-Funds that would be issued on that Dealing Day if the proceeds of redemption of the Original Units were invested in that Sub-Fund or Sub-Funds pursuant to Clause 3.00 hereof.
- (c) Unless otherwise specified in the Prospectus issued in respect of the Fund, no fee shall be payable by the Unitholder to the Manager for any such switch. Where such fee is specified it may be retained by the Manager or by any agent or agents or distributors appointed by the Manager for its or their absolute use or benefit and shall not form part of the Assets of the relevant Sub-Fund. The Unitholder shall also reimburse to the Manager or its delegate (in manner aforesaid) any fiscal, redemption and purchase charges arising out of such switch.
- (d) Upon any such switch the Manager shall procure that the relevant Registers are amended accordingly.
- (e) The Manager may, at its discretion, impose restrictions on Unitholder's ability to switch between Sub-Funds and between Classes of Units within and between Sub-Funds and such restrictions shall be disclosed in the Prospectus.
- (f) A Unitholder requesting switching shall not without the written consent of the Manager or its authorised agent be entitled to withdraw a switch notice duly made in accordance with this Clause except in circumstances in which it would be entitled to withdraw a request for redemption of Units.

## 15.00 ENTITLEMENT TO GROSS INCOME PAYMENTS

- 15.01 Unitholders are legally entitled to participate and share in the property of the Fund, including, without limitation, income and gains arising thereon and profits derived therefrom as such income, gains and profits arise as co-owners and, accordingly, income, gains and profits accrue to Unitholders as they arise.
- 15.02 The Manager may if it thinks fit, declare and pay such Gross Income Payments in respect of any Units in the Sub-Fund as appear to the Manager to be justified, subject to any policy statement in relation to the Gross Income Payments in the Prospectus with respect to any Sub-Fund or Class. The Manager may, in its absolute discretion, differentiate between the Units in any Sub-Fund and Units in different Classes within the same Sub-Fund as to the Gross Income Payment declared on such Units. The Manager shall have the absolute right to decide whether a Gross Income Payment shall be made or not. The Gross Income Payment policy in respect of a Sub-Fund or Class will be specified in the Prospectus.
- 15.03 Unitholders are absolutely entitled to the income, gains and profits of the relevant Sub-Fund as they arise whether or not a Gross Income Payment is made. In determining the Gross Income Payment that may be made, the Manager shall be entitled to deduct from the Gross Income of the relevant Sub-Fund or Class any expenses of the Fund in respect of that Sub-Fund or Class. Gross Income of the relevant Sub-Fund or Class shall include income in the form of dividends, interest and otherwise and realised and unrealised gains net of realised and unrealised losses of the Fund during the Gross Income Period and the capital of the Fund. Gross Income Payments may only be paid out of the funds available for the purpose which may be lawfully distributed and may be adjusted as the Manager deems appropriate as follows:
- (a) addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases of securities by a Sub-Fund cum or ex dividend of those securities;
  - (b) addition of a sum representing any interest or dividends or other income accrued but not received by the Manager at the end of the Gross Income Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous Gross Income Period) interest or dividends or other income accrued at the end of the previous Gross Income Period;
  - (c) addition of the amount (if any) available for payment in respect of the last preceding Gross Income Period but not distributed in respect thereof;
  - (d) addition of a sum (if relevant) representing the estimated or actual repayment of tax resulting from any claims in respect of income tax relief or double taxation relief or otherwise (if relevant);
  - (e) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income of the Sub-Fund;
  - (f) deduction of a sum representing participation in income paid upon the cancellation of Units during the Gross Income Period; and
  - (g) deduction of such amount as the Manager or its delegate may certify necessary in respect of any expenses, remunerations or other payments (including without



limitation, Administration Expenses and Disbursements) accrued during the Gross Income Period and properly payable out of the income or, if net income is exhausted, the capital of the Sub-Fund unless otherwise stated in the Prospectus;

provided always that in the absence of negligence, fraud or wilful default, the Manager shall not be responsible for any error in any estimates of tax repayments or double taxation relief expected to be obtained or of any sums payable by way of taxation or receivable as income, but if the same shall not prove in all respects correct it shall ensure that any consequent deficiency or surplus shall be provided for in the Gross Income Period (which may, if the Manager determines, be paid out of the Gross Income available) in which a further or final settlement or determination is made of such tax repayment or relief or amount payable or receivable and no adjustment shall be made to any payment previously made.

- 15.04 Subject to Clause 15.03, the amount, if any, to be paid in respect of each Gross Income Period shall be determined by the Manager (subject as hereinafter provided).
- 15.05 Gross Income Payments (if any) shall be made to each Unitholder's investment in the relevant Sub-Fund or Class as described in the Prospectus with respect to that Sub-Fund or Class. Such payments shall be made at such time as the Manager may determine to the persons who were registered in the Register as Unitholders as of the Gross Income Date (so that, subject to Clauses 15.09 and 15.10 below, the same amount shall be paid in respect of every Sub-Fund's Unit of the same Class which was in issue as of the Gross Income Date and which has not been cancelled) at the end of a Gross Income Period. In the case of persons who do not meet the above condition and who have ceased to be Unitholders during a Gross Income Period, any amount payable on redemption of Units shall include the income, gains and profits (if any) accrued to the date of redemption after the discharge of accrued expenses. Such amount shall be notified to the former Unitholder by the Manager as soon as possible after receipt of a redemption request by the former Unitholder.
- 15.06 The Manager is entitled to be reimbursed for its reasonable and legitimate expenses and disbursements arising as a result of paying Gross Income Payments, out of the Gross Income Payments attributed to Unitholders.
- 15.07 The Manager shall ensure that the relevant Sub-Fund includes or, upon the completion of the sale of the Investments agreed to be sold, will include cash at least sufficient to pay any Gross Income Payments determined by the Manager to be made to persons registered as Unitholders on the Gross Income Date.
- 15.08 Unless otherwise requested by the payee, any monies payable by Manager to a Unitholder in respect of any Unit under the provisions of this Deed shall be paid in the Base Currency of the relevant Sub-Fund by bank transfer at the expense of the recipient Unitholder. Every such bank transfer or cheque shall be made payable to the Unitholder or joint Unitholders at the risk of such Unitholder or joint Unitholders or in the event of a Unitholder having or in the case of joint Unitholders all of them having given a mandate in writing in such form as the Manager shall approve for payment to the bankers or other agent or nominee of the Unitholder or Unitholders in accordance with the instructions of such Unitholder or Unitholders.
- 15.09 Where the Manager has determined to pay Gross Income Payments or where a Unitholder has elected to receive cash payment of Gross Income Payments and the amount of any Gross Income Payments to make to an individual Unitholder is less than such amount as the Manager may determine, the Manager shall not make any such Gross Income Payment and,

in lieu thereof, shall issue and credit to the account of the relevant Unitholder the number of Units corresponding to the relevant Base Currency amount calculated at the Net Asset Value per Unit pertaining on the relevant Gross Income Date.

- 15.10 Gross Income Payments not claimed within six years from their due date will lapse and revert to the relevant Sub-Fund.
- 15.11 No Gross Income Payments or other amount payable to any Unitholder shall bear interest against the Fund or any Sub-Fund.
- 15.12 No Gross Income Payment shall be made if this would result in the Net Asset Value of a Sub-Fund being reduced below such amount as the Manager may determine.

#### **16.00 ANNUAL REPORT AND HALF YEARLY REPORT**

- 16.01 In respect of each Accounting Period the Manager or its delegate shall prepare and cause to be audited by the Auditors an annual report relating to the Fund. Such annual report shall be in a form approved by the Central Bank and shall contain such information as may be required under the UCITS Regulations, the Central Bank UCITS Regulations or specified by the Central Bank.
- 16.02 The annual report shall be made available by the Manager to all Unitholders not later than four months after the end of the period to which it relates.
- 16.03 In accordance with Irish law and regulations the Manager may elect to prepare the annual report and accounts in accordance with generally accepted accounting principles in Ireland or in accordance with such international accounting standards as may be permitted under Irish law from time to time.
- 16.04 The audit report appended to the annual report shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined with the books and records of the Fund and of the Manager in relation thereto and that the Auditors have obtained all the information and explanations they have required and the Auditors shall report whether the accounts are in their opinion properly drawn up in accordance with such books and records and present a true and fair view of the state of affairs of the Fund, and whether the accounts are in their opinion properly drawn up in accordance with the provisions of this Deed.
- 16.05 The costs and expenses of the audit and the costs and expenses of preparing and providing reports to Unitholders and to the Central Bank shall be payable out of the Assets and, if met by the Manager, shall be reimbursed out of the Assets.
- 16.06 For so long as required under the UCITS Regulations, the Manager or its delegate shall prepare an un-audited half-yearly report for the six months immediately succeeding the Accounting Date by reference to which the last annual report of the Fund was prepared. Such half-yearly report shall be in a form approved by the Central Bank and shall contain such information as may be required under the UCITS Regulations.
- 16.07 The said half-yearly report shall be made available by the Manager to Unitholders not later than two months from the end of the period to which it relates.
- 16.08 The Manager shall provide the Central Bank with any monthly or other reports it may require.

16.09 In addition to any other reports required under Clause 16.01 above or otherwise under the terms of this deed, Unitholders shall be provided with a report detailing the breakdown of Gross Income Payment as provided for in Clause 15.00, detailing the type and source of such income.

#### 17.00 INDEMNITY OF THE MANAGER

17.01 Neither the Manager nor any of its affiliates (and their respective directors, officers, employees or agents) shall be held liable for and shall be indemnified and held harmless from any actions, proceedings, claims, costs, demands, charges, losses, damages or expenses suffered or borne by the Fund or of any of its Sub-Funds, a Unitholder or any other person, arising as a result of the activities of the Manager hereunder including, without limitation, any error of judgement or for any loss suffered by the Fund or any of its Sub-Funds or any Unitholder or any person claiming under him as a result of the acquisition, holding or disposal of any Investment, unless the same arises as a result of the Manager's negligence or fraud or any matter in respect of which they cannot limit or exclude their liability as a matter of law.

17.02 The Manager shall (in accordance with the requirements of the Central Bank) be entitled to delegate to any person, firm or corporation upon such terms and conditions as it may think fit all or any of its powers and discretions in relation to the distribution, management, investment management and administration of the affairs of the Fund and of its Sub-Funds and the keeping, maintenance of the Registers and any such other matters as the Manager may deem fit, provided that, subject and without prejudice to Sub-Clause 17.01, the Manager shall not be held liable for any actions, costs, charges, losses, damages or expenses arising as a result of the acts or omissions of its officers, servants, delegates or sub-contractors.

17.03 The Manager shall (in accordance with the requirements of the Central Bank) be entitled to delegate to the Investment Manager upon such terms and conditions as it may think fit all or any of its powers, authorities and discretions in relation to the selection, acquisition, holding and realisation of Investments and the application of any moneys forming part of the Assets provided that subject and without prejudice to Sub-Clause 17.01, the Manager shall not be held liable for any actions, costs, charges, losses, damages or expenses arising as a result of the acts or omissions of the Investment Manager, its officers, servants, delegates or sub-contractors or, where applicable, for its own acts or omissions in bona fide following the advice or recommendations of an Investment Manager its officers, servants, delegates or sub-contractors.

17.04 The Manager shall ensure that any arrangements or transactions that it or its agents enter into with counterparties on behalf of the Fund shall contain provisions stating that recourse of that counterparty is limited to the Net Asset Value of the Fund or the Net Asset Value of a Sub-Fund where the agreement or transaction is entered into in respect of that Sub-Fund.

#### 18.00 OTHER FUNDS

Nothing herein contained shall be construed to prevent the Manager from establishing or acting as Manager for funds separate and distinct from the Fund.

**19.00 MERGER OF SUB-FUNDS OR MERGER WITH ANOTHER COLLECTIVE INVESTMENT UNDERTAKING**

19.01 The Manager may on behalf of the Fund or any Sub-Fund thereof effect a merger of the Fund or relevant Sub-Fund thereof with another collective investment scheme in accordance with the requirements of the UCITS Regulations.

**20.00 REMUNERATION OF THE MANAGER AND THE DEPOSITARY**

20.01 All fees and expenses incurred in connection with the establishment of the Fund will be borne out of the assets of the Sub-Funds. These expenses will be amortised over the first three annual accounting periods of the Fund or such other period as may be determined by the Directors.

20.02 All reasonable fees, expenses and Disbursements (including Administration Expenses) of or incurred by the Manager or the Depositary or any delegate of either of them in connection with the ongoing administration and operation of the Fund and its Sub-Funds and Classes shall be payable out of the income of the relevant Sub-Fund or, if attributable specifically to a Class, the income attributable to the relevant Class or to the extent that the income is insufficient out of the remaining Assets of the relevant Sub-Fund or Assets attributable to a Class as the case may be, including (but not limited to):

- (a) auditors' and accountants' fees;
- (b) legal and professional advisory fees;
- (c) fees and commissions payable to any placing agent, structuring agent, distributor (if applicable) or distribution adviser of the Units, including, subject to Clause 6.00 above, any such party being an affiliate or Associate of the Manager;
- (d) merchant banking, prime brokerage, stockbroking or corporate finance fees including interest on borrowings;
- (e) taxes or duties imposed by any fiscal authority;
- (f) costs of preparation, translation and distribution of all reports, certificates, confirmations of purchase of Units and notices to Unitholders;
- (g) fees and expenses incurred in connection with the admission or proposed admission of Units to listing on any Regulated Market and in complying with the listing rules thereof;
- (h) the costs and expenses of obtaining authorisations or registrations of a Sub-Fund or of any Units with the regulatory authorities in various jurisdictions, including the fees of the Central Bank;
- (i) custody and transfer expenses;
- (j) insurance premia;
- (k) any other expenses, including clerical costs of issue or redemption of Units or fees and expenses incurred in connection with the clearance and settlement of Units;
- (l) the cost of preparing, printing and/or filing in any language this Deed (and any amendment to it) and all other documents relating to the Fund including registration statements, prospectuses, listing particulars, explanatory memoranda, annual, semi-

annual and extraordinary reports with all authorities (including local securities dealers' associations) having jurisdiction over the Fund or any Sub-Funds of the Fund or the offer of Units of the Fund and the cost of delivering any of the foregoing to the Unitholders;

- (m) advertising and marketing expenses relating to the distribution of Units of the Fund;
- (n) the costs of publication of notices in local newspapers in any relevant jurisdiction;
- (o) stamp duty payable upon this Deed or upon the issue of Units;
- (p) preliminary expenses of the Fund;
- (q) any regulatory fees;
- (r) costs of termination of any Sub-Fund and the Fund; and
- (s) fees and expenses incurred in connection with the distribution of Units in any relevant jurisdiction including fees payable to any paying agent or information agent required to be appointed by the Manager in such jurisdiction

in each case plus any applicable value added tax.

20.03 The Manager will be entitled to receive a management fee with respect to each Sub-Fund payable out of the Assets of the Sub-Fund held on behalf of each Sub-Fund accruing daily and payable monthly in arrears at an annual rate which will not exceed 5% of the average daily net Assets of the relevant Sub-Fund (plus value added tax, if any, thereon). Any increase in this maximum rate shall be effected only upon approval by a simple majority of votes cast by Unitholders in general meeting, or prior written approval of all Unitholders, and the Fund shall provide Unitholders with a reasonable notification period so as to enable Unitholders to redeem their Units prior to the implementation of the increase. This fee shall be payable in the Base Currency of the relevant Sub-Fund or such other currency as may be specified in the Prospectus. The Manager shall pay the Investment Manager out of this fee. The Manager shall also be entitled to reimbursement out of the Assets held on behalf of each Sub-Fund of all reasonable out-of-pocket expenses incurred for the benefit of the Sub-Fund including expenses incurred by the Investment Manager in the performance of its duties and charged to the Manager.

20.04 The Manager may voluntarily undertake to reduce or waive its management fee or to make other arrangements to reduce expenses of a Sub-Fund to the extent that such expenses exceed such lower expense limitation as the Manager may, by notice to the Sub-Fund, voluntarily declare to be effective. The Manager may terminate or modify this voluntary undertaking at any time at its sole discretion upon notice in writing to the Depositary.

20.05 The Depositary and Administrator shall be entitled to receive such fees and expenses out of the Assets of the Fund relating to each Sub-Fund as shall be specified in the Prospectus.

#### 21.00 COVENANTS OF THE MANAGER

21.01 The Manager hereby covenants that it will carry out and perform its duties and obligations as herein provided.

21.02 The Manager hereby covenants that it will not issue any Unit at a price in excess of the price computed in accordance with the provisions of Sub-Clause 3.09 at the time of issue of such Unit.

## **22.00 DEALINGS AT REQUEST OF UNITHOLDERS**

Notwithstanding anything herein contained neither the Manager nor the Depositary nor any other party shall be required to effect any transaction in Units or with any part of the Investments or the Assets on behalf or for the benefit or at the request of any Unitholder unless such Unitholder shall first have paid in cash to the Manager or the Depositary or to any such party as otherwise provided to its satisfaction as the case may be any necessary stamp duty or other transaction tax or fee which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing, provided always that the Manager or the Depositary or such other party shall be entitled if they or it (as the case may be) so think fit to pay and discharge all or any of such stamp duty or transaction tax or fee on behalf of the Unitholder and to retain the amount so paid out of any moneys or property to which such Unitholder may be or become entitled in respect of its Units or otherwise howsoever hereunder.

## **23.00 MANAGER TO PREPARE ALL WARRANTS**

23.01 Notwithstanding anything hereinbefore contained it shall be the duty of the Manager or its delegate to prepare (or procure the preparation of) all warrants, accounts, summaries, declarations, offers, statements or transfers of Investments and despatch them on the day they ought to be despatched.

## **24.00 CONTINUANCE OR RETIREMENT OF THE MANAGER**

24.01 Save as in this Clause provided, the Manager shall so long as the Fund subsists continue to act as the Manager thereof in accordance with the terms of this Deed.

24.02 The Manager for the time being shall be subject to removal by notice in writing given by the Depositary to the Manager forthwith if (i) following the service of written notice, which may be issued in counterpart, signed by Unitholders holding 75% (75 per cent) of the Units in issue in the Fund requiring the Manager to resign, the Manager has not resigned; (ii) the Manager goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved by the Unitholders); (iii) a receiver is appointed in respect of any of the assets of the Manager; (iv) the Manager is no longer permitted by the Central Bank to perform its duties or exercise its powers in respect of the Fund; or (v) if an examiner is appointed to the Manager pursuant to the Companies Act 2014 and the Depositary shall by writing under its seal appoint some other corporation (approved by the Central Bank) to be the Manager of the Fund upon and subject to such corporation entering into such deed or deeds as the Depositary may be advised is or are necessary or desirable to be entered into by such corporation in order to secure the due performance of its duties as Manager.

24.03 The Manager may retire at any time upon the appointment of a successor with the approval of the Depositary and the Central Bank save that the approval of the Depositary shall not be required where the Manager retires in favour of an affiliate or associate of the Manager. The successor to the Manager must be approved by the Central Bank.

24.04 No assignment of the Deed may be made other than with the prior approval of the Central Bank and in accordance with the requirements of the Central Bank.

## **25.00 DUTIES OF THE DEPOSITARY**

The duties, obligations, liabilities, indemnities, rights and powers of the Depositary are set out in the Depositary Agreement and are subject to the UCITS Regulations, the UCITS Directive, the Central Bank UCITS Regulations and the laws of Ireland.

## **26.00 LIABILITY OF THE DEPOSITARY**

The Depositary will be liable to the Manager and the Unitholders in accordance with the terms of the Depositary Agreement.

## **27.00 REPLACEMENT OR RETIREMENT OF THE DEPOSITARY**

Save as provided below, the Depositary shall so long as the Fund subsists continue to act as the Depositary thereof in accordance with the terms of the Depositary Agreement which may be terminated by either party giving not less than ninety (90) days prior written notice to the other party thereto.

If no new Depositary is appointed within ninety days of the date of the Depositary's notification of its intention to retire or the Manager's notification of its intention to replace the Depositary, the Manager shall apply to the Central Bank for the revocation of the Fund's authorisation under the Act and shall serve notice of termination of the Fund pursuant to Clause 29.00 hereof provided that the Depositary will continue to act as Depositary until such time as the Fund has been terminated in accordance with Clause 29.00 and authorisation of the Fund by the Central Bank has been revoked.

The appointment of the Depositary shall not be terminated nor shall the Depositary be entitled to retire voluntarily except upon the appointment of a new Depositary with the prior approval of the Central Bank or the termination of the Fund and revocation of authorisation of the Fund by the Central Bank. In the event of the Manager wishing to replace the Depositary or the Depositary desiring to retire, the Manager may, subject to the prior approval of the Central Bank, by deed supplemental hereto appoint any corporation approved by the Central Bank to act as Depositary of schemes such as the Fund to be the Depositary in the place of the retiring Depositary. The Manager will use reasonable endeavours to appoint such a duly qualified corporation upon receipt of notification from the Depositary of its desire to retire.

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## **28.00 ADVERTISEMENTS**

Every advertisement, circular or other document of that nature containing any statement with reference to the issue price of Units or the yield therefrom or containing any invitation to buy Units shall comply with the requirements of the UCITS Regulations and shall conform to the laws of any country in which the Units are marketed.

## **29.00 DURATION AND TERMINATION OF THE FUND AND ITS SUB-FUNDS**

29.01 The Fund and each of the Sub-Funds have been established for an unlimited period. However, the Fund will be terminated by the Manager by notice in writing as hereinafter provided if within a period of three months from the date of the Depositary expressing in writing to the Manager its desire to retire the Manager shall have failed to appoint a new depositary.

29.02 The Fund or any of its Sub-Funds or Classes may be terminated by the Manager in its absolute discretion by notice in writing to the Unitholders as hereinafter provided in any of the following events, namely:

- (a) the Net Asset Value of the relevant Sub-Fund falls below such amount as shall be specified in the Prospectus;
- (b) if the Manager in its sole discretion deems it appropriate because of material administrative disadvantage or adverse political, economic, fiscal, regulatory or other changes or circumstances affect the relevant Sub-Fund or Class;
- (c) if the Manager determines that the continuation of any Fund, Sub-Fund or Class is not economically viable;
- (d) if the Manager determines that the continuation of any Fund, Sub-Fund or Class is not in the best interests of Unitholders;
- (e) if the Fund shall cease to be an authorised Common Contractual Fund under the UCITS Regulations or if any of its Sub-Funds or Classes shall cease to be approved by the Central Bank;
- (f) if any law shall be passed which renders it illegal or in the reasonable opinion of the Manager impracticable or inadvisable to continue the Fund or any of its Sub-Funds or Classes;
- (g) if within a period of three months from the date of the Manager expressing in writing to the Depositary its desire to retire, a replacement manager shall not have been appointed; or
- (h) if within a period of three months from the date of the sole remaining Investment Manager expressing in writing to the Manager its desire to retire the Manager shall have failed to appoint a new Investment Manager.

29.03 Notwithstanding the above, pursuant to Clause 2.01(A) hereof, the Manager shall have power upon notice to the Central Bank to close any Sub-Fund by serving not less than thirty days' notice of such closure on the holders of Units in that Sub-Fund.

### **30.00 PROVISIONS ON TERMINATION OF FUND AND SUB-FUNDS**

30.01 The party terminating the Fund or a Sub-Fund or a Class shall give notice thereof to the Unitholders in the manner herein provided and by such notice fix the date on which such termination is to take effect which date shall not be less than thirty days' after the service of such notice.

30.02 After the giving of notice of such termination the Manager shall procure the sale of all Investments then remaining in the hands of the Depositary or of the Depositary's nominee as part of the Assets and such sale shall be carried out and completed in such manner and within such period before or after the termination of the Fund, the Sub-Fund or the Class as the Manager and the Depositary think desirable.

30.03 The Manager shall at such time or times as it shall deem convenient and at its entire discretion procure the distribution to the Unitholders, of all net cash proceeds derived from the realisation



of the Investments of the relevant Sub-Fund or attributable to the relevant Class and any cash then forming part of the relevant Sub-Fund or attributable to the relevant Class so far as the same are available for the purpose of such distribution. Every such distribution shall be made only after such form of request for payment and receipt as the Manager shall in its absolute discretion require, have been lodged with the Manager, provided that:

- (a) the Manager acting in good faith, shall be entitled to retain out of any moneys held by the Depositary full provision for all reasonable costs, charges, expenses, claims, liabilities and demands relating to the relevant Sub-Fund or Class for which the Manager or the Depositary is or may become liable or incurred, made or expended by the Manager or the Depositary in connection with the termination of the Fund or of the Sub-Fund or of the Class, as the case may be, and out of the moneys so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands; and
- (b) any unclaimed net proceeds or other cash held by the Depositary may at the expiration of twelve months from the date on which the same were payable be paid into court subject to the right of the Depositary to deduct therefrom any expenses it may incur in giving effect to this provision.

#### **31.00 STOCK EXCHANGE PRACTICES**

At all times and for all purposes of this Deed, the Depositary and the Manager may rely upon the established practice or rulings of any Regulated Market or any committees and officials thereof in determining what shall constitute usual settlement practice or good delivery and any similar matters and such practice and rulings shall be conclusive and binding upon all persons under the Deed.

#### **32.00 ELIGIBLE INVESTORS**

- 32.01 The Manager shall have the power (but shall not be under any duty) to impose such restrictions as it may deem appropriate or necessary so that no Units are acquired or held by any person in breach of the laws or requirements of any country or governmental authority including without limitation any exchange control regulations applicable thereto or in the circumstances described in Sub-Clause 32.04.

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- 32.02 The Manager may upon an application for Units or at any other time and from time to time require such evidence to be furnished to it in connection with the matters stated in Sub-Clause 32.01 as it shall in its discretion deem sufficient.
- 32.03 If a person becomes aware that it is holding or owning Units in contravention of Sub-Clause 32.01 it shall forthwith seek the redemption and cancellation of its Units.
- 32.04 If it shall come to the notice of the Manager or if the Manager shall have reason to believe that any Units are owned directly or indirectly by:
  - (a) any person in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to hold such Units and resulting in the Fund, any Sub-Fund or a Unitholder incurring liability to taxation or suffering a pecuniary disadvantage which the Fund or the relevant Sub-Fund or a Unitholder might not otherwise have incurred or suffered; or

- (b) any person or persons in circumstances which, (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Manager to be relevant) in the opinion of the Manager might result in the Fund, any Sub-Fund or a Unitholder incurring any liability to taxation or suffering pecuniary disadvantages which the Fund or the relevant Sub-Fund or another Unitholder might not otherwise have incurred or suffered;
- (c) any person in breach of the eligibility criteria for a Class of Units;
- (d) any person in breach of any restrictions on ownership from time to time specified by the Manager;
- (e) any U.S. Person;
- (f) any person who is not an Eligible Investor; or
- (g) any person who does not supply any information or declaration required under the Deed or the Prospectus,

the Manager shall be entitled to give notice to such person requiring him to give a request in writing for the redemption of such Units in accordance with Clause 13.00 and/or appropriate, compulsorily redeem and/or cancel such number of Units held by such person as is required to discharge and may apply the proceeds of such compulsory redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Units by such person including any interest or penalties payable thereon.

Where a Unitholder's holding of Units in a Class within a Sub-Fund is less than the minimum initial subscription amount for that Class of Unit or where the Unitholder no longer meets the eligibility criteria for investment in that Class of Units, the Manager may mandatorily convert the Unitholder's Units to another Class of Unit. In such circumstances the Manager may convert the Unitholder's Units to Units of another Class which is not denominated in the same currency, does not have the same hedging or the same Gross Income Payment policy, or tax withholding or reclaim rate policy or which differs in other material responses from the original class of Units.

- 32.05 If any such person upon whom such a notice is served as aforesaid does not within 30 days after such notice request the Manager to redeem such Units as aforesaid it shall be deemed forthwith upon the expiration of 30 days to have requested the Manager to redeem its Units and the Manager shall be entitled to appoint any person to sign on its behalf such documents as may be required for the purposes of the redemption of the said Units by the Manager in accordance with Clause 13.00. The Manager may apply the proceeds of such redemption in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Units by such person including any interest or penalties payable thereon.
- 32.06 Any person or persons holding Units in contravention of any restrictions imposed by the Manager pursuant to Sub-Clause 32.01 shall indemnify and hold harmless each of the Depositary, the Directors, the Manager, the Administrator, the Investment Manager, the Sub-Investment Managers, the Fund, the relevant Sub-Fund and the other Unitholders for any actions, proceedings, claims, costs, demands, liabilities, taxes, charges, losses, damages, costs or expenses directly or indirectly suffered or incurred by such indemnified party arising

out of or in connection with the failure of such person to comply with his obligations pursuant to the Prospectus and/or Deed.

32.07 The Manager may redeem Units where, during a period of six years, no acknowledgment has been received in respect of any contract note or other confirmation of ownership of the Units sent to a Unitholder. In such a redemption, the Manager is required to hold the redemption monies in a separate interest bearing account for one year, after which period the monies shall accrue to the relevant Sub-Fund.

### 33.00 NOTICES

33.01 Any notice or other document required to be served upon or sent to a Unitholder shall be given in the case of Unitholders entered on the Register of a relevant Sub-Fund if sent by email, pre-paid post, facsimile or by telex or left at its address as appearing on the Register and in the case of joint Unitholders if so sent to or left at the address of the first named Unitholder on the Register or if issued or published in such manner as the Manager shall determine. Any notice sent by post as provided in this Clause shall be deemed to have been duly given 7 Business Days after posting and any notice sent by facsimile or by telex or left as stated in this Clause shall be deemed to have been duly given on receipt of a positive transmission receipt, on receipt of an answerback or on the Business Day on which it was so left, only if the notice has been left during usual business hours on such Business Day, and if the notice is left outside usual business hours, it shall be deemed to have been left on the next following Business Day. Evidence that the notice was properly addressed, stamped and put into the post shall be conclusive evidence of posting. Any notice issued or published shall be deemed to have been duly given on the date of such notice's first issue or publication.

33.02 Service of a notice or document on any one of several joint Unitholders entered in the Register of a relevant Sub-Fund shall be deemed effective service on himself and the other joint Unitholders entered in the Register.

33.03 Any notice or document served in accordance with Sub-Clause 33.01 shall notwithstanding that such Unitholder be then dead or bankrupt and whether or not the Depositary or the Manager has notice of its death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the Units concerned.

33.04 Any notice or other document which is sent by post, telex or fax or left at the registered address of the Unitholder entered in the Register of a relevant Sub-Fund named therein or despatched by the Manager or the Depositary in accordance with any Unitholder's instructions shall be so sent left or despatched at the risk of such Unitholder.

33.05 Any notice or other document required to be served upon or sent to one party to this Deed by the other party shall be deemed to have been properly served upon or received by that party if delivered or sent by pre-paid post, facsimile or by telex to or left at the other party's address as hereinbefore set out. Any notice sent by post as provided in this Clause shall be deemed to have been duly given 48 hours after posting and any notice sent by facsimile or by telex or left as stated in this Clause shall be deemed to have been duly given on receipt of a positive transmission receipt, on receipt of an answerback or on the Business Day on which it was so left, only if the notice has been left during usual business hours on such Business Day, and if the notice is left outside usual business hours, it shall be deemed to have been left on the next following Business Day. Evidence that the notice was properly addressed, stamped and put

into the post shall be conclusive evidence of posting. Any notice issued or published shall be deemed to have been duly given on the date of such notice's first issue or publication.

- 33.06 Where prior consent of the Unitholders of the Fund or of any Sub-Fund or Class is required pursuant to the provisions of this Deed, the Manager shall give written notice to such Unitholders of the proposal. The notice shall include full details of the proposal and shall specify the time for receipt of written responses by the Manager which shall not be less than 21 (twenty-one) days from the date of the notice (inclusive of the day on which the notice is served and the day on which the notice is given). An accidental omission to give notice to or the non-receipt of notice by any Unitholder shall not invalidate the consent requirements as set out in this Deed.

#### **34.00 REGISTRATION AND COPIES OF DEED**

A copy of this Deed and of any deeds supplemental hereto shall be deposited with the Central Bank pursuant to the UCITS Regulations and shall at all times during usual business hours be made available by the Manager or its delegate at the registered offices in Ireland of the Manager for inspection by Unitholders and any Unitholder shall be entitled to receive from the Manager or its delegate a copy of such deeds as aforesaid on production of such evidence of ownership as is satisfactory to the Manager or its delegate and making request therefor to the Manager or its delegate for each copy document required. Instead of supplying copies of this Deed and any deeds supplemental hereto the Manager or its delegate shall be entitled to supply copies of this Deed as amended by such deeds supplemental hereto.

#### **35.00 MODIFICATION OF DEED AND VARIATION OF RIGHTS**

- 35.01 The Depositary and the Manager may, with the prior approval of the Central Bank, be entitled by deed supplemental hereto to modify, alter or add to the provisions of this Deed in such manner and to such extent as they may consider necessary or expedient for any purpose other than one which would cause the Fund to cease to be an authorised Common Contractual Fund provided that, unless the Depositary shall certify in writing that in its opinion such modification, alteration or addition does not materially prejudice the interests of the Unitholders or any of them and does not operate to release the Depositary or the Manager from any responsibility to the Unitholders or unless such modification, alteration or addition shall be required by virtue of legislation, or any regulation made or notice issued by the Central Bank under the UCITS Regulations, no such modification, alteration or addition shall be made unless, of the Unitholders in the Fund or, in the case of a modification, alteration or addition affecting only one or more Sub-Funds, the relevant Sub-Fund or Sub-Funds, responding to a request for confirmation, at least 50% of responses in writing, by Net Asset Value, consent to the change and provided also that no such modification, alteration or addition shall impose upon any Unitholder any obligation to make any further payment in respect of its Units or to accept any liability in respect thereof. Any amendments shall be in accordance with the requirements of the Central Bank.
- 35.02 In the event of any such modification, alteration or addition as aforesaid in the provisions of this Deed, the Manager shall, within 21 days of the execution of such supplemental deed, deposit with the Central Bank a copy of this Deed as so modified, altered or added to, or containing the said modifications, alterations or additions.
- 35.03 The rights attaching to Units issued in the Fund or any Sub-Fund or Class may be varied or abrogated provided, of the Unitholders in the Fund or the relevant Sub-Fund or Class in

question responding to a request for confirmation, at least 50% of responses in writing, by Net Asset Value, consent to the variation or abrogation, provided always that the rights conferred upon the holders of Units in the Fund or any Sub-Fund or Class which have been issued with other rights shall not, unless otherwise expressly provided by the terms of issue of Units in the Fund or relevant Sub-Fund or Class be deemed to be varied by the creation or issue of further Units ranking pari passu therewith.

**36.00 GOVERNING LAW**

This Deed shall be governed by and construed in accordance with the laws of Ireland and each of the parties hereto to submit to the exclusive jurisdiction of the courts of Ireland.

**37.00 COUNTERPARTS**

This Deed may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument. Any party to this Deed may enter into the Deed by signing such Counterpart.

**IN WITNESS** whereof the parties hereto have executed this Amended and Restated Deed the day and year above referred to.

**GIVEN** under the Common Seal of  
**MERCER GLOBAL INVESTMENTS MANAGEMENT LIMITED**  
affixed hereto:



*M. Depsey*  
**MATSACK TRUST LIMITED**  
PER *[Signature]*  
**SECRETARY**

**PRESENT** when the Common Seal of  
**STATE STREET CUSTODIAL SERVICES (IRELAND) LIMITED**  
was affixed hereto:

*J. Leitner*  
*[Signature]*



**MERCER GLOBAL INVESTMENTS MANAGEMENT LIMITED  
(Manager)**

**STATE STREET CUSTODIAL SERVICES (IRELAND) LIMITED  
(Depositary)**

**AMENDED AND RESTATED DEED OF CONSTITUTION  
CONSTITUTING  
MERCER UCITS COMMON CONTRACTUAL FUND**

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**AN OPEN-ENDED UMBRELLA COMMON CONTRACTUAL FUND  
AUTHORISED BY THE CENTRAL BANK OF IRELAND AND  
ESTABLISHED PURSUANT THE UCITS REGULATIONS, AS  
AMENDED**

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