

J.P. MORGAN BANK (IRELAND) PLC

BLACKROCK ASSET MANAGEMENT IRELAND LIMITED

**BLACKROCK UCITS FUNDS**

**AN UMBRELLA FUND**

**AMENDED AND RESTATED  
UNIT TRUST DEED**

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THIS AMENDED AND RESTATED TRUST DEED is made on 4 December 2009

BETWEEN:

J.P. MORGAN BANK (IRELAND) PLC  
having its head office  
at JP Morgan House  
International Financial Services Centre  
Dublin 1  
(hereinafter called the "Trustee")

- and -

BLACKROCK ASSET MANAGEMENT  
LIMITED  
having its registered office  
at JP Morgan House  
International Financial Services Centre  
Dublin 1  
(hereinafter called the "Manager")

WHEREAS:

- A. The Fund was constituted by a Unit Trust Deed dated 28 June 2007 (the "Original Deed") as an umbrella unit trust pursuant to the UCITS Regulations under the name Barclays Global Investors UCITS Funds (the "Fund"). On 4 December 2009, the Fund changed its name to BlackRock UCITS Funds. The parties agreed that the Original Deed be amended and restated by a Unit Trust Deed dated 28 May 2008 and be amended by an amended and restated Trust Deed dated 4 December 2009 (the "Amended and Restated Trust Deed").
- B. The parties hereto have agreed that the Amended and Restated Trust Deed be amended and restated in the manner specified herein.

IT IS HEREBY AGREED as follows:

## **SECTION 1.0 - INTERPRETATION**

### **1.1 Definitions**

In this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:

- (a) "Account Opening Form", such account opening form as the manager may prescribe for the purposes of opening an account in relation to the Fund and/or relevant class of Sub-Fund.
- (b) "Accounting Date", 31 March in each year or such other date as the Manager, with the approval of the Trustee, may determine.

- (c) “Accounting Period” a period ending on the Accounting Date and commencing on the day following the end of the last Accounting Period.
- (d) “Administrator”, any person, firm or corporation appointed and for the time being acting as Administrator of the Fund pursuant to the terms of this Deed.
- (e) “Administration Agreement”, any agreement for the time being subsisting to which the Manager and the Administrator are parties and relating to the appointment and duties of the Administrator.
- (f) “Affiliate”, a company which has the ultimate parent of the Investment Manager as its ultimate parent, or a company in which that company has at least 50% direct or indirect ownership.
- (g) “Associate”, any subsidiary companies of the Trustee or a company part of the share capital of which is held or controlled by the Trustee;
- (h) “Auditors”, a person qualified for appointment as auditor of an authorised unit trust pursuant to the UCITS Regulations and so appointed as auditor of the Trust by the Manager.
- (i) “Base Currency”, in respect of any class of Units, means the currency in which the Units are issued.
- (j) “Business Day”, in relation to any Sub-Fund, such day or days as the Manager may determine and notify in advance to Unitholders.
- (k) “Capital Property”, includes securities, rights, benefits, money and other property, all of the foregoing as deemed by the Manager after consulting the Auditors to be in the nature of capital received or receivable by the Trustee by reason of its holding of the property of the Fund.
- (l)
- (m) “Central Securities Depository”, a recognised system or clearing agency which acts as a central securities depository for particular securities and with whom the Trustee must deposit or maintain securities owned by the Fund but does not include the participants therein.
- (n) “Clear Days”, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
- (o) “Client Agreement”, an agreement between the Investment Manager, or an Affiliate and an investor, under which the investor has appointed the Investment Manager or such Affiliate to carry out investment management or advisory services on its behalf.
- (p) “Collective Investment Scheme”,
  - (i) any arrangement made for the purpose, or having the effect, of providing

facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of investments or any other property whatsoever; and

- (ii) any other investment vehicle of a similar nature to that described in paragraph (i) of this definition (including, without limitation, any open ended investment company, mutual fund or fonds commun de placement);
- (iii) in relation to such collective investment scheme (“unit”) means any unit, share or other interest (howsoever described) of similar nature in such collective investment scheme.
- (q) “Dealing Day”, such Business Day as the Manager may from time to time determine and notify in advance to Unitholders in the case of any Sub-Fund, provided that there shall be at least two Dealing Days in each calendar month.
- (r) “Dealing Form”, such dealing form as the Manager may prescribe for the purposes of dealing in Units of the Fund and/or relevant class of Sub-Fund.
- (s) “Dealing Price”, the price at which Units of any Sub-Fund may be issued, redeemed or switched, as calculated and determined in accordance with the terms of this Deed.
- (t) “Directive”, Council Directive of 20 December 1985 (85/611/EEC) on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities as amended by Council Directive of 22 March 1988 (88/220/EEC), Directive No. 95/26/EC of the Council and of the European Parliament of 29 June 1995, Directive No. 2001/107/EC of the Council and of the European Parliament of 21 January 2002, Directive No. 2001/108/EC of the Council and of the European Parliament of 21 January 2002 and Commission Directive 2007/16/EC and any amendment thereto.
- (u) “Duties and Charges”, in relation to any Sub-Fund, all stamp and other duties, taxes, governmental charges, brokerage, bank charges, foreign exchange commissions and spreads, interest, custodian or sub-custodian charges (relating to sales and purchases), transfer fees, registration fees, and other duties and charges whether in connection with the original acquisition or increase of the assets of the relevant Sub-Fund or the creation, issue, sale, conversion or repurchase of Units or the purchase or sale of Investments or in respect of certificates or otherwise which may have become or may be payable in respect of or prior to or in connection with or arising out of or upon the occasion of the transaction or dealing in respect of which such duties and charges are payable which, for the avoidance of doubt, includes, any provision for spreads (to take into account the difference between the price at which assets were valued for the purpose of calculating the Net Asset Value and the estimated price at which such assets shall be bought as a result of a subscription and sold as a result of a redemption) but shall not include any commission payable to agents on sales and purchases of Units or any commission, taxes, charges or costs which may have been taken into account in ascertaining the Net Asset Value of Units in the relevant Sub-Fund.

- (v) “EEA”, the European Economic Area being at the date of this Deed, the Member States, Norway, Iceland and Liechtenstein.
- (w) “Euro”, “EUR” and “€”, the single European currency unit referred to in Council Regulation (EC) No. 974/98 on 3 May 1998 on the introduction of the Euro.
- (x) “Fund”, the Investments and cash for the time being held by the Trustee under the trusts of this Deed and any Deed supplemental to this Deed.
- (y) “Financial Regulator”, Irish Financial Services Regulatory Authority or any successor thereof.
- (z) “Holding Company”, has the meaning ascribed thereto in the Companies Acts 1963 to 2009.
- (aa) “Income Property”, includes interest, dividends, benefits and other property, all of the foregoing as deemed by the Manager after consulting the Auditors, to be in the nature of income received or receivable by the Trustee by reason of its holding of the property of the Fund.
- (bb)
- (cc) “Initial Offer Period”, the period set by the Manager in relation to any Sub-Fund as the period during which the Units thereof are initially on offer at the Initial Subscription Price(s).
- (dd) “Initial Issue(s)”, the initial issue(s) of Units of any Sub-Fund applied for during the Initial Offer Period therefor at the relevant Initial Subscription Price(s).
- (ee) “Initial Subscription Price(s)”, the price(s) at which Units are in any Sub-Fund first offered for purchase or subscription during the Initial Offer Period.
- (ff) “Investments”, any investment authorised by this Deed and which is permitted by the UCITS Regulations.
- (gg) “Investment Manager”, any person, firm or corporation appointed and for the time being acting as Investment Manager of the investments of the Sub-Funds under the terms and provisions of the Investment Management Agreement.
- (hh) “Investment Management Agreement”, any agreement for the time being subsisting between the Manager and the Investment Manager in relation to the appointment and duties of the Investment Manager.
- (ii) “In writing”, any written, printed or lithographed or photographed material or represented by any other substitute for writing or partially one and partially another.
- (jj) “Member State”, member states of the European Union.
- (kk) “Minimum Additional Investment Amount”, such amount as the Manager may from time to time prescribe in a Prospectus in respect of any Sub-Fund as the



minimum amount of any subscription by any Unitholder for additional Units of the relevant class.

- (ll) “Minimum Holding”, a holding of Units in any Sub-Fund or across a number of Sub-Funds having an aggregate value of such minimum amount as determined by the Manager.
- (mm) “Minimum Investment Amount”, such amount as the Manager may from time to time prescribe in respect of any Sub-Fund as the minimum initial subscription for Units of that Sub-Fund.
- (nn) “Net Asset Value”, the Net Asset Value of the Units of any Sub-Fund determined in accordance with this Deed.
- (oo) “Net Asset Value Per Unit”, the Net Asset Value divided by the number of Units (in issue) of the relevant Sub-Fund subject to such adjustment, if any, as may be required where there is more than one class of Units in the Sub-Fund.
- (pp) “OECD”, the Organisation for Economic Co-operation and Development, whose member states currently comprise Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States;
- (qq) “Proper Instructions”, any oral instructions which are confirmed in writing as soon as practicable after being given provided that non-receipt of such written confirmation shall not invalidate any instructions given orally, any written telexed or telefaxed instructions and any instructions transmitted by electronic communication or by such other means as may from time to time be agreed between the parties hereto received by either party hereto in respect of any matters referred to in this Deed which such party reasonably believes or which purport to have been given by the other party hereto or such one or more persons as such other party shall from time to time have authorised to give the particular class of instructions in question provided that such instructions comply with such test or security procedures as may from time to time be agreed between the parties hereto.
- (rr) “Prospectus”, any prospectus or supplement thereto issued by the Manager from time to time in connection with the purchase of or subscription for Units.
- (ss) “Qualified Holder”, shall bear the same meaning as set out in the Prospectus.
- (tt) “Repurchase”, shall include redemption of Units.
- (uu) “Redemption Price”, in respect of any Sub-Fund the price at which a Unit may be repurchased or redeemed, calculated in accordance with the terms of this Deed.
- (vv) “Register”, the Register of Unitholders kept pursuant to the provisions of Section 9.00 of this Deed.

- (ww) “Relevant Time”, the day and hour of the day set out as the time limit for certain events as may be specified by the Manager in the Prospectus.
- (xx) “Regulated Markets”, the stock exchanges and/or regulated markets listed in the Appendix hereto.
- (yy) “Resolution”, a resolution passed by a simple majority of the Unitholders present in person or by proxy at a duly convened meeting of Unitholders.
- (zz) “Securities System”, a generally recognised book-entry system or clearing agency which acts as a securities depository and with whom the Trustee may deposit or maintain securities owned or held on behalf of the Fund, pursuant to the provisions hereof.
- (aaa) “Signed”, includes a signature or representation of a signature affixed by mechanical means.
- (bbb) “Sub-Fund”, the sub-funds maintained in accordance with Section 2.0 hereof which shall be kept separate in respect of each class of Unit to which all assets and liabilities, income and expenditure attributable or allocated to each such sub-fund shall be applied or charged (together the “Sub-Funds”).
- (ccc) “Subscription Price”, in respect of any Sub-Fund the price at which Units thereof may be issued, calculated and determined in accordance with the terms of this Deed.
- (ddd) “Subsidiary”, has the meaning ascribed to it by the Companies Acts 1963 to 2009.
- (eee) “Trust”, the trust constituted by this Deed.
- (fff) “Trust Period”, the period from the date of this Deed until the Trust shall be terminated.
- (ggg) “UCITS”, an Undertaking for Collective Investment in Transferable Securities, as defined in the Directive.
- (hhh) “UCITS Regulations”, the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 (SI No. 211 of 2003), as amended by the European Communities (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2003 (SI No. 212 of 2003), by the European Communities (Undertakings for Collective Investments in Transferable Securities) (Amendment No. 2) Regulations 2003 (SI No. 497 of 2003), by the European Communities (undertakings for Collective Investment in Transferrable Securities) (Amendment No. 4) Regulations 2003 (SI No. 373 of 2003) and by the European Communities (Undertakings for Collective Investments in Transferable Securities) (Amendment) Regulations 2007 (SI No. 832 of 2007), as same may be amended and any notices or regulations issued by the Financial Regulator pursuant thereto.

- (iii) “Unit”, one undivided share in a Sub-Fund.
- (jjj) “Unitholder” or “Holder”, the person(s) for the time being entered on the Register as the holder of a Unit.
- (kkk) “United States”, and “US”, the United States of America or any of its territories, possessions, any state of the United States and the District of Columbia.
- (lll) “US Person”, shall bear the same meaning as set out in the Prospectus.
- (mmm) “Valuation Point”, shall bear the same meaning as set out in the Prospectus.
- (nnn) “1933 Act”, the United States Securities Act of 1933, as amended.
- (ooo) “1940 Act”, the United States Investment Company Act of 1940, as amended.

## **1.2 Construction**

- (a) Any reference to any provision of any legislation shall include any extension, modification or re-enactment thereof.
- (b) Words importing the singular include the plural and vice versa and words importing the masculine gender only include the feminine gender and words importing persons include corporations and the words “written” or “in writing” include printing engraving lithography or other means of visible reproduction.
- (c) Words such as “hereunder”, “hereto”, “hereof” and “herein” and other words commencing with “here” shall unless the context clearly indicates to the contrary refer to the whole of this Deed and not to any particular Section or Clause thereof.
- (d) Save as otherwise provided herein any reference to a Section, Clause, paragraph or sub-paragraph shall be a reference to a Section, Clause, paragraph or sub-paragraph (as the case may be) of this Deed and any reference in a Clause to a paragraph or sub-paragraph shall be a reference to a paragraph or sub-paragraph of the Clause or paragraph in which the reference is contained unless it appears from the context that a reference to some other provision is intended.
- (e) Any reference to the “Manager” or “Trustee” herein shall, where the context so admits or requires include their successors and assigns.
- (f) Except as otherwise expressly provided, reference to times of day shall be to local time in Ireland.
- (g) The word “currency” shall refer to the currency in which the Units are designated.

## **1.3 Headings and Captions**

The section headings and captions to the Clauses in this Deed are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of this Deed.

## **1.4 Preliminary Expenses**

All preliminary expenses incurred relating to the organisation and establishment of this Trust and in connection with the initial issue of its Units and the listing thereof on any stock exchange shall be amortised over the first five financial years of the lifetime of the Trust or such other period as the Manager may determine. Such expenses shall, in the accounts of the Trust, be charged against income and/or capital and as between the Sub-Funds on such terms and in such manner as the Manager (with the consent of the Trustee) deems fair and equitable as determined by the Manager from time to time in consultation with the Auditors provided that each Sub-Fund will bear its own direct establishment costs and costs of listing its Units on any stock exchange.

## **SECTION 2.0 - CONSTITUTION OF THE FUND**

### **2.1 The Fund**

- (a) The Fund shall be called “BlackRock UCITS Funds”. The Fund shall be constituted by, and Units shall be issued in respect of, cash subscribed and other property transferred by persons for Units in accordance with the terms hereof.
- (b) The Fund is structured as an “umbrella fund” in that different sub-funds (“Sub-Funds”) thereof may be established from time to time with the prior approval of the Financial Regulator. In addition, each Sub-Fund may have more than one class allocated to it (which class may be created in accordance with the requirements of the Financial Regulator) and the Manager may divide the Units into different classes in such currencies as it deems fit and designate one or more class to a separate Sub-Fund. The Units of each class allocated to a Sub-Fund will rank *pari passu* with each other in all respects except as to currency of denomination of the class, dividend policy, the level of fees and expenses to be charged, minimum subscription and minimum holding amounts applicable or any other feature as may be determined by the Manager and approved by the Financial Regulator. On or before the issue of Units the Manager shall specify the Sub-Fund (and class thereof, if relevant) in relation to which such Unit is designated. Details of the fees and expenses relating to any particular class will be set out in the Prospectus relating thereto.
- (c) Each Unit will represent an undivided beneficial interest in the Trust comprising the Fund.
- (d) Sub-Funds of the Fund and classes of Units within Sub-Funds may be established with the prior approval of the Financial Regulator.

All monies payable for or in respect of Units (including without limitation the subscription and repurchase monies in respect thereof) shall be paid in the currency in which such Unit is designated or in such other currency as the Manager shall determine either generally or in relation to a particular Sub-Fund or in any specific case.

- (e) The Fund's sole object is the collective investment in transferable securities and/or other liquid financial assets referred to in Regulation 45 of the UCITS Regulations, of capital raised from the public operating on the principle of spreading investment risk in accordance with the UCITS Regulations.

## **2.2 Trust and Investments of the Fund**

The Manager hereby appoints the Trustee to be, and the Trustee hereby agrees to act as Trustee in respect of all the assets of the Trust. The Trustee shall be responsible for the safekeeping of all the assets of the Fund and of each of the Sub-Funds in accordance with the provisions of this Deed and shall stand possessed of the Fund and each of the Sub-Funds upon trust for the Unitholders in accordance with the provisions of this Deed. Subject as hereinafter provided, the Trustee shall at all times retain in its own possession or that of its sub-custodians in safe custody all the Investments and cash of the Fund and all documents of title or value connected therewith actually received by the Trustee or such agents. The assets of each Sub-Fund shall belong exclusively to that Sub-Fund and shall be segregated from the assets of either the Trustee or its agents or both and shall not be used to discharge directly or indirectly liabilities or claims against any other undertaking or entity and shall not be available for any such purpose.

## **2.3 Sub-Funds**

All consideration, other than the initial subscription charge (if any) payable to the Manager, received for the allotment or issue of Units of each Sub-Fund, together with all Investments in which such consideration is invested or reinvested, all income, earnings, profits and proceeds thereof shall be segregated and kept separate in respect of each Sub-Fund to which the provisions set out below shall apply (it being understood that the Fund as a whole shall not be liable to third parties):

- (a) the records and accounts of each Sub-Fund shall be maintained separately in the Base Currency of the relevant Sub-Fund;
- (b) the assets of each Sub-Fund shall belong exclusively to that Sub-Fund, shall be segregated, in the records of the Trustee, from the assets of other Sub-Funds, 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;
- (c) the proceeds from the issue of each class of Unit shall be applied to the relevant Sub-Fund established for that class of Unit, 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;
- (d) where any asset is derived from another asset, the derived asset shall be applied to the same Sub-Fund as the assets from which it was derived and on each revaluation of an asset the increase or diminution in value shall be applied to the relevant Sub-Fund;
- (e) where an asset or a liability of the Fund cannot be considered as being attributable to a particular Sub-Fund or Sub-Funds, the Manager shall have discretion, to determine the basis upon which such asset or liability shall be allocated between

the Sub-Funds and the Manager shall have power at any time and from time to time to vary such basis, including allocating such asset or liability between all Sub-Funds or some of the Sub-Funds pro rata to their Net Asset Values or such other basis as the Manager determines.

## **2.4 Issue of Units**

The Manager shall have the exclusive right to create and issue for the account of the Trust new Units in any Sub-Fund (and Units in any class in any Sub-Fund) at any time prior to the termination of the Trust Period.

## **SECTION 3.0 - TRUST TO COMPLY WITH THE UCITS REGULATIONS**

### **3.1 Covenants of Manager and Trustee**

The Manager and the Trustee hereby mutually covenant that at all times during the Trust Period the Trust will be carried on in compliance with the UCITS Regulations and with any conditions imposed by the Financial Regulator from time to time.

### **3.2 Further Covenants**

Without prejudice to the generality of Clause 3.1:

- (a) the Manager hereby covenants with the Trustee that:
  - (i) it shall furnish to the Financial Regulator and, in any case where the Financial Regulator so specifies, to the Unitholders, particulars required to be furnished under the UCITS Regulations within such time as the Financial Regulator may from time to time specify;
  - (ii) it shall from time to time prepare a Prospectus containing such information in relation to the Trust as a prospective purchaser of the Units would reasonably require and the Manager shall, after approval and examination of the Prospectus by the Trustee, send a copy thereof to the Financial Regulator;
  - (iii) it shall at all times maintain:
    - A. a place of business in Ireland;
    - B. its paid up share capital at such level as the Financial Regulator may require from time to time for managers of Unit Trusts; and
    - C. assets sufficient to meet its liabilities (including liabilities in respect of its paid up capital);
    - D. it shall not lend money forming part of the Fund to a person to enable him to purchase Units.

- (b) the Trustee hereby covenants with the Manager that the Trustee shall at all times maintain:
  - (i) a place of business in Ireland;
  - (ii) its paid up share capital at such level as the Financial Regulator may require from time to time for trustees of Unit Trusts or provide appropriate guarantees as to its liabilities to the satisfaction of the Financial Regulator;
- (c) the Manager and the Trustee hereby mutually covenant that:
  - (i) the name of the Trust shall not be changed without the consent of the Financial Regulator; and
  - (ii) the effective control over the affairs of the Manager and of the Trustee shall be exercised independently of one another.

## **SECTION 4.0 - UNITS**

### **4.1 Issue of Units**

- (a) The Manager may, in its absolute discretion, refuse to accept any application for Units in whole or in part without assigning reasons therefor.
- (b) Subject as hereinafter provided, the Manager, on receipt by it or any of its authorised agents, of the following:
  - (i) an application for Units of any Sub-Fund in such form as the Manager may from time to time determine;
  - (ii) such information and declarations as to the applicant's status, residence, identity or otherwise as the Manager from time to time may require;

may issue Units at the Subscription Price therefor determined in accordance with Clause 4.3 or at the Dealing Price therefor determined in accordance with Clause 5.0, or provided that the application referred to in paragraph (b)(i) above has been received may allot such Units pending receipt of cleared funds and/or such information and declarations referred to in paragraph (b)(ii). The originals of Account Opening and/or Dealing Forms should be delivered to the Manager within such number of days after the time of receipt of application by fax or other means as the Manager may determine. Failure to provide the original Account Opening and/or Dealing Forms by such time may, at the discretion of the Administrator, result in the compulsory redemption of the Units in accordance with this Deed.

- (c) Payment for Units shall be made in such currency (in the case of cash subscriptions), place and manner and to such person on behalf of a Sub-Fund as the Manager may from time to time determine.

- (d) Non-issue, or a delay in issuing, of a contract note does not affect an applicant's liability to pay subscription monies by the Relevant Time. If payment in full in cleared funds in respect of a subscription has not been received by the Relevant Time, any allotment of Units made in respect of such application may be cancelled. In the event of the non-clearance of subscription monies, any allotment in respect of an application shall be cancelled. In either event and notwithstanding cancellation of the application, the Manager may charge the applicant interest at the rate set out in the relevant Prospectus plus an administration fee as determined by the Manager and set out in the relevant Prospectus, which fee is payable to the Manager. In addition, the Manager will have the right to sell all or part of the applicant's holding of Units in the relevant class or any other Sub-Fund in order to meet those charges.
- (e) The issue or allotment of the Units pursuant to this Clause shall be made following receipt of the Account Opening and/or Dealing Forms provided that the Account Opening and/or Dealing Forms is received by the Manager or its authorised agent in respect of an application to be made during the Initial Offer Period, (save as the Manager may otherwise determine) before the expiry of such period and, in respect of an application made after the Initial Offer Period, no later than the time for receipt thereof. If an application is received outside the time for receipt thereof, it shall (subject to the discretion of the Manager) be treated as an application for Units on the Dealing Day following such receipt.
- (f) The Administrator may (at the option of the Manager) satisfy any application for the allotment of Units by procuring the transfer to the applicant of fully-paid Units and the effective date of such transfer shall be the relevant Dealing Day. In any such case, references in this Deed to allotting Units shall, where appropriate, be taken as references to procuring the transfer of Units.
- (g) For the purposes of this Deed:
  - (i) Units of a Sub-Fund which have been allotted but not issued on a Dealing Day shall be deemed to be in issue on receipt of payment therefor and Units of a Sub-Fund whose allotment has been cancelled and the relevant application monies have not been returned to the applicant on or prior to a Dealing Day shall be deemed to cease to be in issue at the close of business on the day of such cancellation; and
  - (ii) Units which have been repurchased on a Dealing Day in accordance with this Deed shall be deemed to have ceased to be in issue at the close of business on the Dealing Day on which they are repurchased.
- (h) Where an amount received for Units applied for is not an exact multiple of their Subscription Price or Dealing Price (as applicable):
  - (i) where the amount is equal to or greater than such portion of the Subscription Price/Dealing Price of a Unit calculated to such number of decimal places as the Manager may determine, a fraction of a Unit shall be allotted to the applicant who shall be registered as the holder of such a fraction; and



- (ii) where the amount received is less than such portion of the Subscription Price/Dealing Price of a Unit calculated to such number of decimal places as the Manager may determine, such amount will not be returned to the applicant but will be retained by the Manager in order to defray administration costs.

The rights, entitlement and benefits of the holder of a Unit under this Deed are granted to a holder of a fraction of a Unit in proportion to the fraction of the Unit held by him and, except where the context otherwise requires or is otherwise provided herein, reference in this Deed to “Unit” shall include a fraction of a Unit. Notwithstanding anything contained in this Deed the holder of a fraction of a Unit may not exercise any voting rights in respect of such fraction of a Unit.

- (i) The Initial Offer Period in respect of any Sub-Fund may be shortened or extended at the discretion of the Manager. Any shortening or extension of an Initial Offer Period will be notified to the Financial Regulator.
- (j) Where any Sub-Fund has more than one Unit class allotted to it, the Units of each Sub-Fund will rank pari passu with each other in all respects except as to currency of denomination of the class, dividend policy, the level of fees and expenses to be charged, minimum subscription and minimum holdings amounts applicable or any other feature may be determined by the Manager and approved by the Financial Regulator.
- (k) The liabilities of a Unitholder shall be limited to the amount agreed to be contributed by him or her for the subscription of Units.

#### **4.2 Rights attaching to Units**

- (a) Units may only be issued fully paid and shall have no par value.
- (b) The value of the Units shall at all times be equal to their Net Asset Value.
- (c) The rights and restrictions attaching to Units shall be as follows:
  - (i) all Units in the Fund shall carry equal voting rights, except that in matters affecting only a particular Sub-Fund, only holders of Units of that Sub-Fund shall be entitled to vote; and
  - (ii) every Unitholder that is present in person or by proxy at any meeting of Unitholders of the Fund or any Sub-Fund shall have one vote; and
  - (iii) on a poll every Unitholder who is present in person or by proxy at any meeting of Unitholders of the Fund or any Sub-Fund shall have one vote for every Unit of which he is a Unitholder; and
  - (iv) the holder of each Unit shall be entitled to such interest distribution as the Manager may from time to time determine; and

- (v) in the event of a termination of the Fund the holder of a Unit shall have the rights referred to in Clause 19.2.
- (d) The Manager may establish a class or classes of Units in respect of which the Unitholders of that class or classes shall be entitled to receive notice of, attend and speak at all general meetings of the Fund or any Sub-Fund but not to vote on any resolution proposed thereto. In applying for such class or classes of Units, an applicant shall acknowledge that he is investing in a class or classes of Units which does not carry rights to vote at general meetings of the Fund or any Sub-Fund.

### **4.3 Unit Prices**

- (a) The Initial Subscription Price(s) per Unit in each Sub-Fund at which Units shall be allotted and issued during the Initial Offer Period for each Sub-Fund shall be determined by the Manager.
- (b) The Subscription Price per Unit of any class subsequent to the Initial Offer Period shall be ascertained by:
  - (i) determining the Net Asset Value of the relevant class calculated in respect of the Valuation Point on the Dealing Day on which the subscription is to be made and adding thereto such sum as the Manager may consider represents an appropriate figure for Duties and Charges and any other amounts necessary to account for actual expenditure on the purchase of underlying investments;
  - (ii) dividing the amount calculated under (i) above by the number of Units of such class of the relevant Sub-Fund in issue at the relevant Valuation Point; and
  - (iii) adding thereto or deducting therefrom such amount as may be necessary to round the resulting amount to such number of decimal places as the Manager deems appropriate.
- (c) When, on any Dealing Day, subscription flows are matched with redemption flows, the Manager may issue Units at a price which is less than the usual Subscription Price as Duties and Charges may not need to be applied.
- (d) Subject to the provisions of the UCITS Regulations, and to any conditions imposed by the Financial Regulator under the UCITS Regulations the Manager may issue Units on terms providing for settlement to be made by the vesting in the Trustee on behalf of the relevant Sub-Fund of Investments and in connection therewith the following provisions shall apply:
  - (i) in the case of a person who is not an existing Unitholder no Units shall be issued until the person concerned shall have completed and delivered to the Manager an Account Opening Form as required under the Prospectus and satisfied all the requirements of the Manager as to the application;

- (ii) the nature of the Investments transferred into the Sub-Fund are such as would qualify as Investments of such Sub-Fund in accordance with the investment objectives, policies and restrictions of such Sub-Fund;
  - (iii) no Units shall be issued until the Investments shall have been vested in the Trustee, or any sub-custodian to the Trustee's satisfaction and the Trustee shall be satisfied that the terms of such settlement will not be such as are likely to result in any material prejudice to the existing Unitholders of the Sub-Fund; and
  - (iv) The Manager is satisfied that the terms of any exchange would not be such as would be likely to result in any prejudice to remaining Unitholders and provided that any such exchange shall be effected upon the terms (including provision for paying any expenses of exchange and any preliminary charge as would have been payable for Units issued for cash) that the number of Units issued shall not exceed the number which would have been issued for cash against payment of a sum equal to the value of the Investments concerned calculated in accordance with the procedures for the valuation of the assets of the relevant Sub-Fund. Such sum may be increased by such amount as the Manager may consider represents an appropriate provision for Duties and Charges which would be incurred in the acquisition of the Investments by purchase for cash or decreased by such amount as the Manager may consider represents any Duties or Charges to be paid to the Sub-Fund as a result of the acceptance of the exchange.
- (e) The Manager may also issue Units at the Dealing Price calculated in accordance with Clause 5.0.

#### **4.4 Minimum Subscription**

The Manager may decline to issue Units to satisfy any application unless:

- (a) if applicable, as determined by the Manager, the applicant has satisfied the Manager that it has entered into a Client Agreement;
- (b) the amount in value of the Units to which an application relates equals or exceeds:
  - (i) the Minimum Investment Amount or its equivalent in another currency or such other amount as the Manager may from time to time determine in relation to a Sub-Fund; or
  - (ii) the minimum amount of investment in each of the relevant Sub-Funds as the Manager may from time to time determine where application is made for Units of two or more Sub-Funds;

provided that the aggregate amount in value of the Units to which an application relates shall not be less than the Minimum Holding.

- (c) the applicant is already the holder of Units and the amount in value of the Units to which the application relates equals or exceeds the Minimum Additional Investment Amount or such other amount as the Manager may determine.

#### **4.5 Suspension of Issue**

No Units of any Sub-Fund shall be allotted or issued during any period when the determination of the Net Asset Value of Units of that Sub-Fund is suspended pursuant to Clause 7.1.

#### **4.6 Restrictions on Unitholders/Qualified Persons**

- (a) The Manager shall have power (but shall not be under any duty) to impose such restrictions (other than a restriction on transfer to a Qualified Holder) as it may think necessary for the purpose of ensuring that no Units are acquired or held directly or beneficially by:
  - (i) any person who is not a Qualified Holder; or
  - (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, in the opinion of the Manager might result in the Fund incurring any liability to taxation or suffering pecuniary disadvantages which the Fund might not otherwise have incurred or suffered or the Fund being required to register under the 1940 Act, or similar statute successor thereto or to register any class of its securities under the 1933 Act or similar statute successor thereto.
- (b)
  - (i) No person other than a Qualified Holder shall be or remain registered as a holder of Units and the Manager may upon an application for Units or (subject as herein provided) on a transfer of Units or at any other time and from time to time require such evidence to be furnished to it in this connection as it shall in its discretion deem sufficient and in default of such evidence being furnished to the satisfaction of the Manager, the Manager may require the redemption or transfer of such Units.
  - (ii) A holder of Units who shall cease to be a Qualified Holder shall promptly either give to the Manager a redemption notice in respect of such Units or shall promptly transfer such Units to a Qualified Holder.
  - (iii) If the Manager shall in its absolute discretion consider that any holder of Units is not a Qualified Holder (or at any time while registered as a holder of such Units has not been a Qualified Holder) or is a person to whom paragraph (a)(ii) applies or is a holder whose Client Agreement terminated for any reason whatsoever, the Manager may require the redemption or transfer of the Units held by such person in accordance with Clause 6.1 hereof.

## **SECTION 5.0 - DETERMINATION OF NET ASSET VALUE**

### **5.1 Net Asset Value of Units/Dealing Price**

- (a) The Net Asset Value of a Sub-Fund shall be expressed in the Base Currency and shall be determined, subject to Clause 7.1 of this Deed, in accordance with the valuation rules set out hereafter in Section 5.0, as at each Valuation Point and shall be the value of all of the assets comprised in the relevant Sub-Fund less all the liabilities attributable to such Sub-Fund as at the relevant Valuation Point on each Business Day plus any interest accrued on underlying assets between the Valuation Point and the time of calculation of the Net Asset Value on the Dealing Day and subject to any regulations made by the Financial Regulator pursuant to the UCITS Regulations.
- (b) The Net Asset Value of a Sub-Fund shall be expressed in the Base Currency (translated where necessary at such rate of exchange as the Manager thinks fit).
- (c) The Net Asset Value of a class of Units within a Sub-Fund shall be calculated as follows:
  - (i) determining the allocation ratios for each class of Units which shall be done by dividing the figure calculated in (A) below for each class of Units by the figure calculated in (B) below:
    - A. adding the Net Asset Value of each class of Units for the previous Valuation Point and the value of unitholder activity (i.e., net subscriptions/redemptions placed as of the previous Valuation Point) for the current Valuation Point for each class of Units;
    - B. adding the total of the Net Asset Values for all classes of Units for the previous Valuation Point and the value of unitholder activity (i.e., net subscriptions/redemptions placed as of the previous Valuation Point) for the current Valuation Point for all classes of Units;
  - (ii) allocating the Fund's income, expenses and realised and unrealised gains and losses accrued for the current Valuation Point to each class of Units with the amount to be allocated being calculated by multiplying the aggregate of such accrued amounts by the ratios determined in (i);
  - (iii) adding the figures from (ii) as allocated for each class of Units to the expenses accrued, distributions declared and the value of unitholder activity (i.e., net subscriptions/redemptions) for the current Valuation Point which are solely attributed to each specific class of Units. An expense will be attributed to a specific class of Units which is specifically attributable to that class;
  - (iv) adding the results of (iii) for each class of Units to the Net Asset Value of the previous Valuation Point of the respective class of Units.

- (d) The costs and related liabilities/benefits arising from instruments entered into for the purposes of hedging the currency exposure for the benefit of any particular class of a Sub-Fund (where the currency of a particular class is different to the Base Currency of the Sub-Fund) shall be attributable exclusively to that class.
- (e) The Net Asset Value of a class of Units within a Sub-Fund shall be expressed in the Base Currency in which the Sub-Fund is designated (except, where the currency of the particular class is different to the Base Currency of the Sub-Fund, it shall be expressed in the currency in which that class is designated) (translated, where necessary at such rate of exchange as the Manager thinks fit).
- (f) The Net Asset Value of a Unit within a class shall be determined by dividing the Net Asset Value of the relevant class by the number of Units in that class in issue and deemed to be in issue.
- (g)
- (h) If on any Dealing Day the aggregate value of transactions in Units of all Classes of a Sub-Fund result in a net inflow or net outflow from the relevant Sub-Fund, the Manager may adjust the Net Asset Value of the relevant Sub-Fund (other than where a Sub-Fund provides otherwise) by an amount it may consider represents an appropriate figure for Duties and Charges relating to the purchase or sale of underlying investments which may be incurred by the Sub-Fund. The adjustment, where applied, will be an addition to the Net Asset Value per Unit when the net movement results in a net inflow and a deduction from the Net Asset Value per Unit when it results in a net outflow and the resultant amount will be the Dealing Price. As certain markets and jurisdictions may have different charging structures on the buy and sell sides, the resulting adjustment may be different for net inflows and for net outflows.

## **5.2 Assets of Sub-Fund**

- (a) The assets of each Sub-Fund shall be determined to include inter alia:
  - (i) subscription monies receivable for Units allocated, all cash in hand, on deposit, or on call including any interest accrued thereon and all accounts receivable;
  - (ii) all bills, demand notes, certificates of deposit and promissory notes;
  - (iii) all bonds, forward currency transactions, time notes, shares, stock, convertibles, units of or participation in collective investment schemes/ mutual funds, debentures, debenture stock, subscription rights, warrants, futures contracts, options contracts, swap contracts, fixed rate securities, floating rate securities, securities in respect of which the return and/or redemption amount is calculated by reference to any index, price or rate, financial instruments and other investments and securities owned or contracted for by such Sub-Fund, other than rights and securities issued by it;
  - (iv) all stock and cash dividends and cash distributions to be received by such Sub-Fund and not yet received by it but declared to stockholders on record

on a date on or before the day as of which the Net Asset Value is being determined;

- (v) all interest accrued on any interest-bearing securities owned by such Sub-Fund except to the extent that the same is included or reflected in the principal value of such security;
  - (vi) all other Investments of such Sub-Fund;
  - (vii) the establishment costs incurred in establishing such Sub-Fund and the cost of issuing and distributing Units of such Sub-Fund insofar as the same have not been written off; and
  - (viii) all other assets of such Sub-Fund of every kind and nature including prepaid expenses as valued and defined from time to time by the Manager.
- (b) The assets of each Sub-Fund will be valued as follows:
- (i) the value of an Investment which is quoted, listed or normally dealt in on a Regulated Market shall (save in the specific cases set out in paragraphs (iii), (viii), (ix) and (x)) be the closing mid-market price on such Regulated Market as at the relevant Valuation Point or the last traded price when no closing mid-market price is available, provided that:
    - A. if an Investment is quoted, listed or normally dealt in on more than one Regulated Market, the Manager may, in its absolute discretion, select any one of such markets for the foregoing purposes (provided that the Manager has determined that such market constitutes the main market for such Investment or provides the fairest criteria for valuing such securities) and once selected a market shall be used for future calculations of the Net Asset Value with respect to that Investment; and
    - B. in the case of any Investment which is quoted, listed or normally dealt in on a Regulated Market but in respect of which for any reason, prices on that market may not be available at any relevant time, or, in the opinion of the Manager, may not be representative, the value therefor shall be the probable realisation value thereof estimated with care and in good faith by a competent person (which may be the Investment Manager or the Administrator), firm or association making a market in such Investment (approved for the purpose by the Trustee and selected by the Manager) and/or any other competent person qualified, appointed by the Manager (and approved for the purpose by the Trustee) to provide such estimated value;
    - C. in the case of any Investment which is quoted, listed or normally dealt in on a Regulated Market but which was acquired at a premium or at a discount outside or off the relevant market, the level of premium or discount at the date of valuation may be taken into account when valuing such Investment provided the Trustee ensures that the

adoption of such procedure is justifiable in the context of establishing the probable realisation value thereof;

- (ii) the value of any Investment which is not quoted, listed or normally dealt in on a Regulated Market shall be the probable realisable value thereof estimated with care and in good faith by a competent person (which may be the Investment Manager or the Administrator), firm or association making a market in such Investment (approved for the purpose by the Trustee) and/or any other competent person qualified, appointed by the Manager (and approved for the purpose by the Trustee) to provide such estimated value;
- (iii) the value of any Investment which is a unit of or participation in an open-ended collective investment scheme/mutual fund shall be calculated at the latest available net asset value of such unit/participation or the estimated net asset value of such unit/participation (whichever is the more recent) as calculated by the administrator of and in accordance with the requirements of the scheme/fund of which the relevant Investment is a unit/participation;
- (iv) the value of any cash in hand, prepaid expenses, cash dividends and interest declared or accrued as aforesaid and not yet received shall be deemed to be the full amount thereof unless in any case the Manager is of the opinion that the same is unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Manager (with the approval of the Trustee) may consider appropriate in such case to reflect the true value thereof;
- (v) deposits shall be valued at their principal amount plus accrued interest from the date on which the same were acquired or made;
- (vi) treasury bills shall be valued at the middle market dealing price on the market on which same are traded or admitted to trading as at the Valuation Point, provided that where such price is not available, same shall be valued at the probable realisation value estimated with care and good faith by a competent person (which may be the Investment Manager or the Administrator) (appointed by the Manager and approved for the purpose by the Trustee);
- (vii) bonds, notes, debenture stocks, certificates of deposit, bank acceptances, trade bills and similar assets shall be valued at the latest available middle market dealing price on the market on which these assets are traded or admitted for trading (being the market which is the sole market or in the opinion of the Manager the principal market on which the assets in question are quoted or dealt in) plus any interest accrued thereon from the date on which same were acquired;
- (viii) forward foreign exchange contracts will be valued by reference to the price at the Valuation Point at which a new forward contract of the same size and maturity could be undertaken;



- (ix) the value of any futures contracts and options which are dealt in on a Regulated Market shall be the settlement price as determined by the market in question, provided that if such settlement price is not available for any reason or is unrepresentative, same shall be valued at the probable realisation value estimated with care and good faith by a competent person (which may be the Investment Manager or the Administrator) (appointed by the Manager and approved for the purpose by the Trustee);
- (x) the value of any over the counter ("OTC") derivatives contracts shall be valued at least daily at a price obtained from the counterparty or by an alternative valuation provided by a competent person (which may be the Administrator or the Investment Manager) appointed by the Manager and approved by the Trustee for such purpose, or by any other means provided the value is approved by the Trustee. If a derivative instrument is valued at a price obtained from the counterparty, such price shall be verified at least weekly by a party independent of the counterparty (which may be the Administrator or the Investment Manager) approved for such purpose by the Trustee. If a derivative instrument is valued in any other way, such alternative valuation shall be reconciled on at least a monthly basis to a valuation provided by the counterparty and any significant difference shall be promptly investigated and explained;

Forward foreign exchange and interest rate swaps contracts for which market quotations are freely available may be valued in accordance with the previous paragraph or by reference to market quotations (in which case there is no requirement to have such prices independently verified or reconciled to the counterparty valuation);

- (xi) notwithstanding any of the foregoing sub-paragraphs, the Manager with the approval of the Trustee may adjust the value of any Investment if, having regard to currency, applicable rate of interest, maturity, marketability and/or such other considerations as it may deem relevant, it considers that such adjustment is required to reflect the fair value thereof;
- (xii) if in any case a particular value is not ascertainable as above provided or if the Manager shall consider that some other method of valuation better reflects the fair value of the relevant Investment then in such case the method of valuation of the relevant Investment shall be such as the Manager shall decide with the approval of the Trustee and provided that such method is approved by the Trustee;
- (xiii) notwithstanding the foregoing, where at any time of any valuation any asset of a Sub-Fund has been realised or contracted to be realised there shall be included in the assets of the Sub-Fund in place of such asset the net amount receivable by the Sub-Fund in respect thereof provided that if such amount is not then known exactly then its value shall be the net amount estimated by the Manager as receivable by the Sub-Fund; and
- (xiv) any valuations made pursuant to this Deed shall be binding on all persons.

### **5.3 Liabilities attributable to the Sub-Fund**

- (a) The liabilities of each Sub-Fund shall be deemed to include:
  - (i) all bills, notes and accounts payable;
  - (ii) all expenses payable and/or accrued (the latter on a day to day basis);
  - (iii) all known liabilities including the amount (if any) of any unpaid distribution declared upon the Units in the Sub-Fund, contractual obligations for the acquisition of Investments or other property or for the payment of money and outstanding payments on any Units previously redeemed;
  - (iv) an appropriate provision for taxes (other than taxes taken into account as Duties and Charges) and contingent liabilities as determined from time to time by the Manager; and
  - (v) all other liabilities of the Sub-Fund of whatsoever kind and nature except liabilities represented by Units in the Fund;

In determining the amount of such liabilities the Manager may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period.

- (b) The liabilities attributable to each class of Units shall be deemed to include (without limitation):
  - (i) the fees and expenses of any service provider to the Fund attributable to the relevant class of Units;
  - (ii) fees and expenses involved in registering and maintaining registrations of the Units for sale in any jurisdiction outside Ireland, including the preparation of prospectuses;
  - (iii) expenses in connection with the listing of the Units on any securities exchange.
- (c) For the purposes of this Clause 5.3 monies payable by the Fund on the repurchase or redemption by the Sub-Fund of Units pursuant to repurchase or redemption requests or monies payable by the Sub-Fund as a result of the cancellation of allotments shall be deemed to be a liability of the Sub-Fund from the time at which such Units are deemed to cease to be in issue.

### **5.4 General Provisions on Valuation**

- (a) Any assets held, including funds on deposit and amounts payable to a Sub-Fund and any liabilities and amounts payable by a Sub-Fund in a currency other than

the Base Currency shall be translated into the Base Currency at such rate of exchange as the Manager may think fit.

- (b) Where the current price of an Investment is quoted “ex” any dividend (including any stock dividend), interest or other rights to which the Sub-Fund is entitled but such dividend, interest or the property to which such rights relate has not been received and is not taken into account under any other provisions of this Clause, the amount of such dividend, interest, property or cash shall be taken into account.
- (c) Any certificate as to Net Asset Value of Units in any Sub-Fund given in good faith by or on behalf of the Manager shall be binding on all parties.

## **SECTION 6.0 - REDEMPTION**

### **6.1 Redemption**

- (a) Subject as hereinafter provided, on receipt by the Manager of a request in writing in such form as it may from time to time determine by a holder of Units of any class (the “Dealing Form” and the “Applicant” respectively) which request shall, save as provided in this Clause, be irrevocable, redeem (free of any fee or charge) all or any portion of the Units held by the Applicant at the Redemption Price (as hereinafter set out) or at the Dealing Price for each such Unit, determined in accordance with the provisions of this Deed, or procure the purchase thereof at not less than the Redemption Price PROVIDED THAT:
  - (i) the repurchase of Units of any Sub-Fund pursuant to this Clause shall be made on a Dealing Day provided further that the Dealing Form is received by the Manager or its authorised agents within the time set by the Manager in the Prospectus for processing redemption requests on such Dealing Day and if received after such time, the Dealing Form shall (subject to the discretion of the Manager) be treated as a request for redemption on the next following Dealing Day;
  - (ii) in the event that the determination of the Net Asset Value per Unit has been suspended in accordance with Clause 7.1, the right of the Applicant to have his Units redeemed pursuant to this Clause shall be similarly suspended and during the period of suspension he may withdraw his request for redemption and his certificate (if applicable). Any withdrawal of a request for redemption under the provisions of this Clause shall be made in writing and shall only be effective if actually received by the Manager or its duly authorised agent before termination of the period of suspension. If the request is not so withdrawn the redemption of the Units shall be made on the Dealing Day next following the end of the suspension or on such earlier day following the end of the suspension as the Manager, at the request of the Applicant may agree.
- (b) Dealing Forms may be sent in writing or by facsimile at the risk of the relevant Unitholder. The Applicant can also make a redemption request for Units by telephone. In the case of a holder of Units which is a corporation, a list of authorised signatories together with evidence of their authority must be provided

by the corporation to the Manager if the signatories at redemption differ from the list of signatories most recently submitted by the holder. Requests for redemption will not be processed pending receipt by the Manager of the original Account Opening Form for the Units. If Units are held in certificated form the Unitholder must send the original certificate to the Manager. The Manager may, at its option, dispense with the production of any certificate which shall have become defaced, lost, stolen or destroyed upon compliance by the Applicant with the like requirements to those applying in the case of an application by him for replacement of a defaced, lost, stolen or destroyed certificate under Clause 14.3.

- (c) Upon the redemption of a Unit being effected pursuant to this Clause, the Applicant shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a distribution (if any) which has been determined in respect thereof prior to such repurchase or redemption being effected) and accordingly his name shall be removed from the Register with respect thereto, the relevant Units shall be treated as cancelled.
- (d) Where the Administrator receives in respect of any Valuation Point requests for redemptions which in the aggregate amount to more than 10% of the Net Asset Value of any Sub-Fund, the Manager, in its sole discretion, may reduce each such request for redemption of Units pro rata so that all such requests cover no more than 10% of the Net Asset Value of the particular Sub-Fund. Any part of a redemption request to which effect is not given by reason of the exercise of this power by the Manager shall be treated as if a request had been made in respect of the next Dealing Day and each succeeding Dealing Day (in relation to which the Manager shall have the same power) until the original requests have been satisfied in full provided always that requests for redemption that remain to be satisfied by reason of the exercise of this power by the Manager shall be complied with in priority to later requests.
- (e)
  - (i) If it shall come to the notice of the Manager that any Units are owned directly or beneficially by any person in breach of the restrictions imposed by Clause 4.6 above, the Manager may give notice to such person requiring him to transfer such Units to a person who is qualified or entitled to own such Units or to give a request in writing for the repurchase of such Units in accordance with paragraph (a) above. If any person upon whom such a notice is served pursuant to this sub-paragraph does not within thirty days after such notice:
    - A. transfer his Units to a person qualified to own such Units;
    - B. request the Manager to repurchase his Units; or
    - C. establish to the satisfaction of the Manager (whose judgement shall be final and binding and conclusive) that he is not subject to such restrictions;

he shall be deemed upon the expiration of such thirty days to have given a request in writing for the repurchase of all his Units pursuant to paragraph

- (a) above and shall be bound forthwith to deliver his certificate or certificates to the Manager and the Manager shall be entitled to appoint any person to sign on his behalf such documents as may be required for the purpose of the repurchase of the said Units.
- (ii) A person who becomes aware that he is holding or owning Units in breach of any such restrictions as aforesaid shall forthwith unless he has already received a notice pursuant to sub-paragraph (i) above either transfer all his Units to a person qualified to own such Units or give a request in writing for the repurchase of all his Units pursuant to paragraph (a) above.
- (iii) Payment of any amount due to such person pursuant to sub-paragraph (i) or (ii) above will be deposited by the Trustee in a bank for payment to such person against surrender of the certificate(s) (if any) representing the Units previously held by such person. Upon deposit of such amount as aforesaid such person shall have no further interest in such Units or any of them or any claim against the Fund in respect of such Units except the right to receive such amounts so deposited (without interest).
- (f) Where, in any case involving a redemption of less than the entire of an Applicant's holding of Units, any amount representing the redemption monies for such Units is not an exact multiple of their Redemption Price or Dealing Price (as applicable):
  - (i) where the amount is equal to or greater than such portion of the Redemption Price/Dealing Price of a Unit calculated to such number of decimal places as the Manager may determine, a fraction of a Unit shall be allotted to the Applicant who shall be registered as the holder of such a fraction;
  - (ii) where the amount received is less than such portion of the Redemption Price/Dealing Price of a Unit calculated to such number of decimal places as the Manager may determine, such amount will not be returned to the Applicant but will be payable to the Manager in order to defray administration costs.

## **6.2 The Redemption Price**

- (a) The Redemption Price per Unit of a class of a Sub-Fund shall be ascertained by:
  - (i) determining the Net Asset Value of the Units of the relevant class calculated in respect of the Valuation Point on the Dealing Day on which the redemption is to be made and deducting therefrom such sums as the Manager may consider represents an appropriate provision for Duties and Charges and any other amounts necessary to account for the actual sale price of underlying investments;
  - (ii) dividing the amount calculated under (i) above by the number of Units of the relevant class then in issue at the relevant Valuation Point; and

- (iii) adding thereto or deducting therefrom such amount as may be necessary to round the resulting sum to such number of decimal places as the Manager deems appropriate.
- (b) When, on any Dealing Day, redemption flows are matched with Subscription flows, the Manager may issue Units at a price which is more than the usual Redemption Price as Duties and Charges may not need to be applied.
- (c) Any certificate as to the Redemption Price given in good faith by or on behalf of the Manager shall be binding on all parties.
- (d) The Manager may also redeem Units at the Dealing Price calculated in accordance with Clause 5.0.
- (e) Notwithstanding any other provision of the Deed, if the Fund becomes liable to account for tax in any jurisdiction in the event that a Unitholder or beneficial owner of a Unit were to receive a distribution in respect of his Units or to dispose (or be deemed to have disposed) of his Units in any way ("Chargeable Event"), the Manager shall be entitled to deduct from the payment arising on any such event an amount equal to the appropriate tax and/or, where applicable, to appropriate or cancel such number of Units held by the Unitholder or such beneficial owner as are required to meet the amount of tax. The relevant Unitholder shall indemnify and keep the Fund indemnified against any loss arising to the Fund by reason of the Fund becoming liable to account for tax in any jurisdiction on the happening of a Chargeable Event if no such deduction, appropriation or cancellation has been made.
- (f) Payment of redemption proceeds shall normally be made in the currency of the class as set out in the relevant redemption request and be paid not later than ten Business Days from receipt of the redemption request. Redemption proceeds will be paid by electronic transfer (less expenses) to the bank account indicated on the Unitholder's most recent form for application for Units or other written instructions to the Manager or its authorised agents
- (g) If Units are held in certificated form a certificate for the remaining Units will be sent by post to the Unitholder (at his own risk). In the case of a partial redemption of a Unitholder's holding, the Administrator will advise the holder of the remaining Units held by him.

### **6.3 Redemption in kind**

The Manager may redeem Units of any class of a Sub-Fund by way of exchange for Investments provided that:

- (a) a Dealing Form is completed and delivered to the Manager as required by this Deed and the redemption request otherwise satisfies all the requirements of the Manager as to such request and the Unitholder seeking redemption of Units agrees to such course of action;

- (b) the Manager is satisfied that the terms of any exchange would not be such as would be likely to result in any prejudice to the remaining Unitholders, and elects that instead of the Units being redeemed in cash, the Redemption Price shall be satisfied in kind by the transfer to the Unitholder of Investments provided that the value thereof shall not exceed the amount which otherwise would have been payable on a cash redemption and provided that the transfer of Investments is approved by the Trustee. Such value may be reduced by such amount as the Manager may consider represents any Duties and Charges to be paid to the Sub Fund as a result of the direct transfer by the Sub Fund of the Investments or increased by such amount as the Manager may consider represents any appropriate provision for Duties and Charges which would have been incurred by the Sub-Fund in the disposition of the Investments to be transferred. The shortfall (if any) between the value of the Investments transferred on a redemption in kind and the redemption proceeds which would have been payable on a cash redemption shall be satisfied in cash. Any decline in the value of the Investments to be transferred in settlement of a redemption between the relevant Dealing Day and the day on which Investments are delivered to the redeeming Unitholder shall be borne by the redeeming Unitholders.
- (c) if a redeeming Unitholder requests redemption of a number of Units that represents 5% or more of the Net Asset Value of a Sub-Fund, the Manager may in its sole discretion redeem the Units by way of exchange for Investments and in such circumstances the Manager will, if requested by the redeeming Unitholder, sell the Investments on behalf of the Unitholder. The cost of such a sale may be charged to the Unitholder;
- (d) if the discretion conferred upon the Manager by paragraph (a) is exercised, the Manager shall notify the Trustee and shall supply to the Trustee particulars of the Investments to be transferred and the amount of cash to be paid to the Unitholder. All stamp duties and registration fees in respect of such transfers shall be payable by the Unitholder.

## **SECTION 7.0 - SUSPENSION/DELAY OF REDEMPTION, VALUATION AND DEALINGS**

### **7.1 Temporary Suspensions/Delays**

- (a) The Manager may declare a temporary suspension of the determination of the Net Asset Value of any Class of any Sub-Fund and of the issue and repurchase of Units during the whole or part of any period:
  - (i) when any of the principal markets on which any significant portion of the Investments of the relevant Sub-Fund from time to time are quoted, listed, traded or dealt in is closed (otherwise than for customary weekend or ordinary holidays) or during which dealings therein are restricted or suspended or trading on any relevant futures exchange or market is restricted or suspended;
  - (ii) when, as a result of political, economic, military or monetary events or any other circumstances outside the control, responsibility and power of the

Manager, any disposal or valuation of Investments of the relevant Sub-Fund is not, in the opinion of the Manager, reasonably practicable without this being seriously detrimental to the interests of owners of Units in general or the owners of Units of the relevant Sub-Fund or if, in the opinion of the Manager, the Redemption Price cannot fairly be calculated or such disposal would be materially prejudicial to the owners of Units in general or the owners of Units of the relevant Sub-Fund;

- (iii) during which any breakdown occurs in the means of communication normally employed in determining the value of any of the Investments of the Sub-Fund or when for any other reason the value of any of the Investments or other assets of the Sub-Fund cannot reasonably or fairly be ascertained; or
  - (iv) when the Manager is unable to repatriate funds required for the purpose of making redemption payments or when such payments cannot, in the opinion of the Manager, be effected at normal prices or normal rates of exchange or during which any transfer of funds involved in the realisation or acquisition of Investments or when payments due or redemptions cannot, in the opinion of the Directors, be effected at normal prices or normal rates of exchange; or
  - (v) following service of a notice of a meeting of the Unitholders at which a resolution is to be proposed to wind up the Trust or a Fund or resolution has been passed for the winding up of the Trust or a Fund.
- (b) Any such suspension shall take effect at such time as the Manager shall declare but not later than the close of business on the Business Day next following the declaration and, thereafter, there shall be no determination of Net Asset Value or issue of Units in any Sub-Fund effected or redemption of Units in any Sub-Fund effected until the Manager shall declare the suspension at an end except that the suspension shall terminate in any event on the first Business Day on which:
- (i) the condition giving rise to the suspension shall have ceased to exist; and
  - (ii) no other condition under which suspension is authorised under paragraph (a) of this Clause shall exist.

## **7.2 Notification of Suspensions**

Any such suspension of the determination of the Net Asset Value of Units and the issue and redemption of Units shall be notified:

- (a) by the Manager to the Financial Regulator immediately (and in any event during the Business Day on which the suspension took place) and to the competent authorities in the Member States of the European Union in which the Units are marketed and in any other country in which the Units are marketed; and
- (b) published in such publication(s) as the Manager may determine.



## **SECTION 8.0 - SUB-FUND CONVERSIONS**

### **8.1 Sub-Fund Conversions**

- (a) Subject to Section 6.0 and Clause 7.1 above and as hereinafter provided the holder of Units of any Sub-Fund (the “Original Sub-Fund”) on any Dealing Day shall have the right from time to time and without payment of any fee to exchange all or any of such Units for Units of another Sub-Fund (the “New-Sub-Fund”) (such Sub-Fund being either an existing Sub-Fund or a Sub-Fund agreed by the Manager to be brought into existence with effect from that Dealing Day) on the following terms:
  - (i) the Unitholder shall give to the Manager instructions in such form as the Manager may from time to time determine;
  - (ii) the form must be received within such time limits as are set out in the relevant Prospectus and will be dealt with on such date as may be approved by the Administrator;
  - (iii) conversion of the Units of the Original Sub-Fund specified in the form shall be effected in the following manner, that is to say:
    - A. the relevant Units of the Original Sub-Fund shall be redeemed and the Redemption Price therefor shall be satisfied by the issue of Units of the New Sub-Fund;
    - B. the Units of the New Sub-Fund shall be issued in respect of and in proportion to (or as nearly as may be in proportion to) the holding of the Units of the Original Sub-Fund which is being converted.
- (b) The provisions of Clause 6.1(b), (c) and (d) shall apply to any exchange under the provisions of paragraph (a).

## **SECTION 9.0 - REGISTRATION OF UNITHOLDERS**

### **9.1 Register of Unitholders**

The following provisions shall have effect with regard to the registration of Unitholders:

- (a) a Register of the Unitholders will be kept by or under the control of the Manager showing the number of Units of each Sub-Fund in issue and there shall be entered in such Register:
  - (i) the names and addresses of the Unitholders; and
  - (ii) the number and type of Units held by every such Unitholder; and
  - (iii) the date on which every such Unitholder was registered in respect of Units of each Sub-Fund standing in his name.

- (b) No person shall be registered as a Unitholder unless he has complied with Clause 4.4 or, (in the case of a transferee of a Unit) the person is a Qualified Holder who enters into a Client Agreement.

## **9.2 Agent to Keep Register**

The Manager may appoint any person as its agent for the purpose of keeping the Register subject to such person first undertaking with the Manager as follows:

- (a) to maintain the Register in a form and manner directed by the Manager;
- (b) to permit no alterations in the form of the Register without the written consent of the Manager;
- (c) to supply on request any information or explanation as required by the Manager or the Trustee in relation to the Register;
- (d) to give the Trustee and the Manager and their representatives access at all times with or without notice to the Register and all subsidiary documents and records; and
- (e) to provide access to the Register by the Financial Regulator.

## **9.3 Register Conclusive Evidence**

- (a) The Register shall be conclusive evidence as to the persons respectively entitled to the Units entered therein and no notice of any trust express, implied, or constructive shall be entered upon the Register or recognised by the Manager or Trustee in respect of any such Units. The receipt of any Unitholder of any monies payable in respect of the Units held by him shall be a good discharge to the Trustee.
- (b) If the Register is kept with the assistance of magnetic storage media the up-to-date output from such magnetic storage media and the magnetic storage media itself shall together constitute the Register.

## **9.4 Change of Name or Address**

Any change of name or address on the part of any Unitholder shall forthwith be notified in writing to the Manager who on being satisfied thereof and on compliance with all such formalities as it may require shall alter the Register or cause it to be altered accordingly.

## **9.5 Inspection of Register**

The Trustee and the Manager shall without any payment be entitled at all reasonable times during business hours to inspect the Register.

## **9.6 Decline to Register**

Notwithstanding anything to the contrary in this Deed the Manager (or other person keeping the Register) may decline to register more than four persons as joint holders of any Unit. A body corporate may be registered as a Unitholder or a joint Unitholder.

## **SECTION 10.0 - TRANSFER OF UNITS**

### **10.1 Procedure on Transfer**

- (a) All transfers of Units shall be effected by transfer in writing in any usual or common form or in any other form approved by the Manager but need not be under seal. Units may not be transferred to any person who is not a Qualified Holder nor to a person who is not a party to a Client Agreement.
- (b) None of the Units has been or will be registered under the 1933 Act or the securities laws of any State of the United States. Accordingly, the Units may not be offered, sold, transferred or delivered, directly or indirectly, in the United States or to, or for the account of, a US Person at any time without the prior consent of the Manager, which consent may be granted or withheld in the sole discretion of the Manager but which will not in any case be granted if, as the result thereof, the number of Unitholders who are US Persons would exceed such number as may be specified by the Manager.
- (c) If a transferee who is a US Person applies to register a transfer of Units and if as a result of such transfer the number of holders of Units known to the Manager to be US Persons would exceed such number as the Manager may from time to time determine or the Manager otherwise becomes aware that a holder of Units is a US Person who acquired Units without the prior consent of the Manager, the Manager will refuse to register the transfer in favour of the US Person and/or may direct the US Person to sell his Units within 30 days and provide to the Manager evidence of the sale by him or to make the request that the Manager redeem the Units pursuant to Clause 6.1. If the United States Person fails to comply with the direction, the Manager will compulsorily redeem the holding of Units of such US Person pursuant to Clause 6.1.
- (d) During any period when the determination of the Net Asset Value of the relevant Sub-Fund has been temporarily suspended, the Manager at its discretion may permit the registration of any transfer of Units.

### **10.2 Entry in Register**

The instrument of transfer of a Unit shall be signed by or on behalf of the transferor. The transferor shall be deemed to remain the holder of the Unit until the name of the transferee is entered in the Register in respect of such Unit.

### **10.3 Refusal to Register Transfers**

The Manager shall decline to register any transfer of a Unit:

- (a) where it is aware or believes that such transfer would or might result in the beneficial ownership of such Unit by a person who is not a Qualified Holder or expose the Fund to adverse tax or regulatory consequences;
- (b) to a person who is not already a Unitholder if, immediately following such transfer, the proposed transferee would not be the holder of a Minimum Holding of Units; or
- (c) where the transferee has not completed an Account Opening Form together with required supporting documentation to the satisfaction of the Manager.

#### **10.4 Procedure on Refusal**

If the Manager declines to register a transfer of any Unit it shall, within two months after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.

#### **10.5 Retention of Transfer Instruments**

Subject to Clause 22.1 below all instruments of transfer which shall be registered shall be retained by the Manager or its agent, but any instrument of transfer which the Manager may decline to register shall (except in any case of fraud) be returned to the person depositing the same.

#### **10.6 Effective on Registration**

No transfer or purported transfer of a Unit other than a transfer made in accordance with this Section shall entitle the transferee to be registered in respect thereof neither shall any notice of such transfer or purported transfer (other than aforesaid) be entered upon the Register.

### **SECTION 11.0 - TRANSMISSION OF UNITS**

#### **11.1 Death of Unitholder**

In the case of the death of a Unitholder, the survivors or survivor where the deceased was a joint holder, and the executors or administrators of the deceased where he was a sole or only surviving holder, shall be the only persons recognised by the Manager and Trustee as having title to his interest in the Units held by such a Unitholder, but nothing in this Clause shall release the estate of the deceased holder whether sole or joint from any liability in respect of any Unit solely or jointly held by him.

#### **11.2 Transfer/Transmission - Special Circumstances**

Any curator or other legal representative of a Unitholder under legal disability and any person entitled to a Unit in consequence of the death or bankruptcy of a Unitholder shall, upon producing such evidence of his title as the Manager may require, have the right either to be registered himself as the holder of the Unit or to make such transfer thereof as the deceased or bankrupt Unitholder or Unitholder under a disability could have made, but the Manager shall in any case have the same right to refuse or suspend

registration as they would have had in the case of a transfer of the Unit by the Unitholder under disability or by the deceased or bankrupt Unitholder before the death or bankruptcy or by the Unitholder under legal disability before such disability.

### **11.3 Rights before Registration**

A person becoming entitled to a Unit in consequence of the death or bankruptcy of a Unitholder shall have the right to receive and may give a discharge for all income distributions (if any) and other monies payable or other advantages due on or in respect of the Unit, but he shall not be entitled to receive notice of or to attend or vote at meetings of the Fund, nor save as aforesaid, to any of the rights or privileges of a Unitholder unless and until he shall be registered as a Unitholder in respect of the Units PROVIDED ALWAYS that the Manager may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Unit and if the notice is not complied with within ninety days the Manager may thereafter withhold all dividends or other monies payable or other advantages due in respect of the Unit until the requirements of the notice have been complied with.

## **SECTION 12.0 - INVESTMENT OF THE FUND/BORROWINGS**

### **12.1 Manager's Obligation/Investment Objectives**

- (a) The Manager hereby undertakes to transfer to the Trustee, forthwith on receipt thereof, all sums (if any) (less any initial charges(s) payable to the Investment Manager or any other distributor in respect thereof) received by it representing subscription application money for Units and cash and all payment of income, principal or capital distribution received by it in relation to all Investments owned by the Fund from time to time and shall ensure that all cash and other property which ought in accordance with the provisions of this Deed form part of the Fund shall be paid or transferred to the Trustee. Monies forming part of the Fund shall be invested at the discretion of the Manager or its duly authorised agent or shall at its discretion (or that of such agent) be retained in cash or on deposit by the Trustee or any sub-custodian appointed by it by the Trustee.
- (b) The Manager may, with the prior written consent of the Trustee, from time to time for the account of any Sub-Fund, enter into underwriting or sub-underwriting contracts in relation to the subscription or purchase of Investments upon such terms in all respects as it shall think fit. All commissions or other fees received by the Manager and all Investments, deposits or cash acquired pursuant to any such contract shall form part of the assets of the relevant Sub-Fund and any subscription or purchase moneys payable thereunder and any fees or commissions payable to sub-underwriters shall be paid out of the assets of the relevant Sub-Fund.
- (c) Subject to the provisions of the UCITS Regulations the Manager shall determine the investment objectives and policies (including the permissible forms of Investments) and restrictions applying to each Sub-Fund and the investment objectives of each Sub-Fund shall be as set out in any Prospectus.

- (d) The assets of each Sub-Fund shall be invested in Investments subject to the restrictions and limits imposed under the UCITS Regulations and under this Deed.
- (e) A Sub-Fund may, subject to the authorisation of the Financial Regulator, invest up to 100% of net assets in different transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member States or public international body of which one or more Member States are members.

The individual issuers may be drawn from the following list:

- (f) OECD Governments (provided the relevant issues are investment grade), European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, European Central Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), Government National Mortgage Association (Ginnie Mae), Student Loan Marketing Association (Sallie Mae), Federal Home Loan Bank, Federal Farm Credit Bank, Tennessee Valley Authority.

The Sub-Fund must hold securities from at least 6 different issues, with securities from any one issue not exceeding 30% of net assets.

- (g) The Fund may (subject to the UCITS Regulations and the prior approval of the Financial Regulator) own all the issued share capital of any entity, which for fiscal or other reasons the Manager considers it necessary or desirable for a Sub-Fund to incorporate or acquire or utilise in connection with the carrying on only of the business of management, advice or marketing in the country where that entity is located, in regard to the repurchase of shares at Unitholders' request exclusively on the Fund's behalf. The shares and assets of any such company shall be held by the Trustee on behalf of the relevant Sub-Fund. None of the limitations or restrictions referred to in paragraphs (c) or (d) above, shall apply to Investments in, loans to or deposits with any such entity, and for the purpose of paragraphs (c) and (d) above, Investments or other property held by any such private company shall be deemed to be held directly for the relevant Sub-Fund. The shares and assets of any such entity shall be held by the Custodian.
- (h) Subject to the provisions of the UCITS Regulations, the Manager may, on behalf of any Sub-Fund, invest up to 20% (35% in certain circumstances and only then in respect of a single issuer) of the Sub-Fund's net assets in transferable securities issued by the same body where the aim of the investment policy of the Sub-Fund is to replicate the composition of a certain index.

## **12.2 Financial Derivative Instruments**

The Manager may, on behalf of each Sub-Fund and subject to the conditions and within the limits laid down by the Financial Regulator, employ techniques and instruments

relating to transferable securities, including investments in financial derivative instruments provided that such techniques and instruments are used for efficient portfolio management purposes or to provide protection against exchange risk or for direct investment purposes, where applicable. Such techniques and instruments will be set out in the Prospectus. New techniques and instruments may be developed which may be suitable for use by the Fund and the Manager may (subject to the conditions and limits laid down by the Financial Regulator) employ such techniques and instruments subject to the Prospectus being updated if necessary and such techniques and instruments being included in the risk management process employed by the Manager for the purpose of engaging in such techniques and instruments.

### **12.3 Stocklending**

The Manager may, with the approval of and assistance of the Trustee, on behalf of each Sub-Fund lend securities to third parties subject to the terms agreed between them (subject to the conditions and within the limits laid down by the Financial Regulator) and to any applicable laws, rules and practices as set out in the relevant Prospectus.

### **12.4 Borrowings**

- (a) Subject to the UCITS Regulations, any requisite consents from the Financial Regulator, the terms of the Prospectus and the law for the time being in force so allowing the Trustee, the Trustee with the authority of the Manager, shall have power from time to time to borrow monies for the account of the Fund and secure such borrowings by pledging, mortgaging or charging the assets of the Fund.
- (b) Any borrowings made pursuant to this Deed may be effected subject to the provisions of the Central Bank Acts 1942 to 2004 (as same may be amended) from any person approved by the Trustee including, if a bank, the Manager, the Trustee, the Administrator, the Investment Manager or any Subsidiary or Holding Company of any of them, (a “relevant lender”), provided that, in the case of any borrowing effected from a relevant lender the rate of interest on that borrowing and any fee or premium payable to the relevant lender in relation to the arrangement, repayment or termination of the borrowing are not higher than the relevant lender would, in accordance with normal banking practice, charge on an arm's length basis for a loan of a similar size and duration in circumstances similar to those then prevailing in relation to the Trust.
- (c) The Trustee may, on the instructions of the Manager and in pursuance of any borrowing arrangements made under this Deed, place on deposit with a lender or any nominee of the lender, an amount out of the Fund which the Trustee considers to be equivalent to the amount borrowed. For the purposes of determining for the purpose of any provision of this Deed the principal amount of all borrowings for the account of any Sub-Fund:
  - (i) what would otherwise constitute borrowings for the account of a Sub-Fund shall be reduced by any amount for the time being so deposited with any lender or its nominee; and

- (ii) any amount borrowed from any particular lender shall be reduced by any balance standing to the credit of any account of the Sub-Fund (or the Trustee for the account of the Sub-Fund) with such lender.
- (d) Whilst any borrowings subsist, the Trustee may from time to time and at any time in its absolute discretion require such amount as it may determine to be maintained either on short-term deposit in any manner authorised by this Deed or on deposit as hereinbefore provided or partly one and partly the other, provided that the Trustee may not require there to be so maintained on deposit an amount exceeding the aggregate amount of all borrowings for the account of the Fund for the time being outstanding.
- (e) Every borrowing shall be made upon the terms that the borrowing shall become repayable in the event of the termination of the Trust or the relevant Sub-Fund.
- (f) For the purpose of securing any borrowing and interest and expenses thereof, the Trustee shall be entitled with the concurrence of the Manager to charge in any manner or in any part the assets of any Sub-Fund and the provisions of this Clause shall have effect subject to the terms of any such charge.
- (g) Any interest on borrowing effected under this Clause and expenses reasonably incurred in effecting, maintaining and terminating such borrowings shall be payable out of the relevant Sub-Fund.
- (h) In order that the Trustee can comply with or exercise its rights under this Clause the Manager shall ensure that each relevant Sub-Fund includes such amount of cash as the Trustee shall in consultation with the Manager require and give written notice thereof to the Manager provided that such notice shall allow the Manager a reasonable period to arrange for any necessary realisation of any Investment.
- (i) The Trustee shall not (subject to and without prejudice to Clause 15.9 (a)) incur any liability by reason of any loss which a Unitholder may suffer by reason of any depletion in the Net Asset Value of any Sub-Fund which may result from the borrowing arrangements made thereunder and (save as herein otherwise expressly provided) the Trustee shall be entitled to be indemnified out of and have recourse to such Sub-Fund in respect of any liabilities, costs, claims or demands which it may suffer arising directly or indirectly.
- (j) In the event that any arrangements for borrowing or making deposits under this Clause shall be made with any of the Trustee, the Manager, the Administrator or any Holding Company or Subsidiary of any of them then such person shall be entitled to retain for its own use and benefit all profits and advantages which may be derived therefrom.

## **12.5 Notice of Meetings**

The Trustee shall without delay forward to the Manager and the Investment Manager all written information requiring action received by the Trustee from issuers of securities held for the Fund by the Trustee or its nominee pertaining to such securities.



## **12.6 Voting Rights of the Investments**

All rights of voting conferred by any of the Investments shall be exercised in such manner as the Manager may in writing direct. The Manager may refrain at the Manager's own discretion at any time from the exercise of any voting rights and no Unitholder shall have any right to interfere or complain. The Trustee shall delegate to the Manager the exercise of all rights which may appertain to the Trustee in respect of the Investments including the right to attend and vote at meetings of shareholders and upon being furnished with reasonable indemnity against costs as the Trustee shall require to take part in or consent to any corporate or shareholders' or stockholders' action and the Trustee shall execute such proxies, powers of attorney or other documents as the Manager may require in order to enable the Manager or their representatives to attend and vote at any such meetings. No Unitholder shall have any right with respect to any Investment to attend meetings of shareholders or stockholders or to vote or take part in or consent to any corporate or shareholders' or stockholders' action. The Manager shall exercise or cause to be exercised the said rights in what it considers to be the best interests of the Unitholders but neither the Trustee nor the Manager nor any representative duly authorised by either of them nor the holder of any proxy or power of attorney shall be under any liability or responsibility in respect of the management of the investment nor in respect of any vote nor action taken or omitted to be taken or consent given or omitted to be given by the Trustee or the Manager in person or by such duly authorised representatives or by the holder of any such proxy or power of attorney.

## **12.7 Soft Commission Orders**

The Manager may make use of soft commission arrangements to enable it to obtain specialist services which are beneficial to the management of the Sub-Funds and which are not available from traditional stockbroking services. All transactions undertaken on a soft commission basis will be subject to the fundamental rule of best execution and will also be disclosed in the subsequent relevant semi-annual and annual reports of the Fund.

# **SECTION 13.0 - DISTRIBUTIONS**

## **13.1 Determination of Distributions**

The Manager may determine such income distributions on the Units of any Sub-Fund as appears to it to be justified by the profits of such Sub-Fund.

## **13.2 Source of Distributions**

The Manager may make distributions out of the net revenue of a Sub-Fund (i.e. all interest, dividends and other income less the Sub-Fund's accrued expenses) and/or realised and unrealised profits on the disposal/valuation of investments less realised and unrealised losses of the Sub-Fund. The particular source of distributions will be as set out in relevant Sub-Fund supplement.

Any determination of the Manager (after consulting the Auditors) expressed in writing as to whether any money or other property constitutes Income Property or Capital Property shall be conclusive.

The Trustee shall stand possessed of the property of the Fund upon trust for the Unitholders in accordance with the provisions of this Deed. However, no Unit shall confer any interest on any Unitholder in any particular part of the property of the Fund.

### **13.3 Entitlement to Income**

Unitholders have no entitlement to income until such time as income has been distributed/allocated to unitholders by the Trustee/Manager, the amount of any income distributed/allocated being so determined by the Trustee/Manager.

### **13.4 Receipts**

If several persons are registered as joint holders of any Unit, any one of them may give effectual receipts for any distribution or other monies payable on or in respect of the Units.

### **13.5 Ranking of Distributions**

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

### **13.6 Unclaimed Distributions**

If the Manager so resolves, any distribution which has remained unclaimed for six years from the date of its declaration shall be forfeited and cease to remain owing by the relevant class and become the property of the relevant Sub-Fund. The payment by the Manager or the Trustee of any unclaimed distribution or other monies payable on or in respect of a Unit into a separate account shall not constitute the Manager or Trustee a trustee in respect thereof.

### **13.7 Payment of Distributions**

Save as may otherwise be provided in any Prospectus, any distribution or other moneys payable in respect of any Unit will be paid by SWIFT or telegraphic or federal wire transfer to the bank account indicated on the Account Opening Form for the Units or as otherwise advised or agreed between the Manager and the Unitholder.

### **13.8 Currency Distribution**

Any distribution or other monies payable on or in respect of a Unit shall be expressed and payment shall be made in the Base Currency or in such other currency as the Manager may determine.

## **SECTION 14.0 - CERTIFICATES AND CONFIRMATIONS OF OWNERSHIP**

### **14.1 Certificates**

Every person whose name is entered as a Unitholder in the Register shall receive a written confirmation of ownership of Units (which may take the form of regular statements of holdings) and registration of such Units on the Register and, if specifically requested in writing by him, be entitled subject to payment of such amount as may be set out in the Prospectus to receive within two months after request for a certificate one certificate for all Units held by him. Any such certificate issued shall be issued in accordance with Clause 14.2(c). Bearer certificates will not be issued.

### **14.2 Balance and Exchange Certificates**

- (a) If any Unitholder shall surrender for cancellation a certificate representing Units held by him and request the Fund to issue in lieu two or more Units certificates representing such Units in such proportions as he may specify, the Manager may, if it thinks fit, comply with such request. Where a Unitholder transfers part only of the Units comprised in a certificate, the old certificate shall be cancelled and a new certificate, for the balance of such Units, issued in lieu without charge.
- (b) The Trustee shall not be bound to register more than four persons as the joint holders of Units (except in the case of executors or trustees of a deceased member) and, in the case of a Unit held jointly by several persons and in respect of which the issue of a certificate has been requested, the Fund shall not be bound to issue more than one certificate in respect of such holding and delivery of a certificate to one of such persons shall be sufficient delivery to all.
- (c) Every certificate shall be signed by the Manager and the Trustee (whose signature may be reproduced mechanically) and shall specify the number, class and distinguishing numbers (if any) of the Units to which it relates and the fact that they are fully paid.

### **14.3 Replacement of Certificates**

If a certificate be defaced, lost, stolen or destroyed, a new certificate may be issued in lieu on such terms (if any) as to evidence of such loss theft or destruction and indemnity and the payment of out-of-pocket expenses of the Manager in investigating evidence as the Manager thinks fit.

## **SECTION 15.0 - MANAGERS, TRUSTEE AND OTHER ADVISERS**

### **15.1 Duties of the Manager**

The Manager hereby covenants with the Trustee that it shall either itself or wholly or in part through its authorised agents or delegates:

- (a) manage the investment and re-investment of the Trust with a view to achieving the then current investment objectives and policies of each of the Sub-Funds from time to time laid down by the Manager and to carry out the duties of a manager of

a Unit Trust in accordance with the UCITS Regulations and the regulations of the Financial Regulator from time to time; and

- (b) carry on the general administration of the Fund and each Sub-Fund.

### **15.2 Manager's Power of Delegation**

- (a) The Manager may, with the prior approval of the Financial Regulator, delegate the whole or any part of its functions hereunder to any person firm or company.
- (b) The Manager shall be entitled to obtain investment and other advice from such source or sources and on such terms as it thinks fit (including, without prejudice to the generality of the foregoing, full power to appoint with the prior approval of the Financial Regulator one or more investment managers to the Fund in relation to the Investments of the Fund).

### **15.3 Manager's Power to enter into Contracts**

The Manager may, with notification to the Trustee, enter into contracts in respect of the investment of the Fund.

### **15.4 Liability of Manager and its Agents**

- (a) Save as provided by the UCITS Regulations, the Manager shall not be under any liability except such liability as may be expressly assumed by it under this Deed nor shall the Manager (save as herein otherwise appears) be liable for any act or omission of the Trustee.
- (b) The Manager shall use due care and diligence in carrying out its obligations under this Deed but, subject to paragraph (a), in the absence of fraud, bad faith, wilful default, recklessness, breach of contract or negligence, the Manager shall not be liable to the Trustee or any Unitholder or otherwise for any loss whatsoever and howsoever incurred by the Trustee or any such Unitholder as a result of the performance or non-performance by the Manager of its obligations and duties hereunder or otherwise in connection with the subject matter of this Deed. The Manager, the Investment Manager and the Administrator shall be indemnified out of the assets of the Fund and each relevant Sub-Fund against all actions, proceedings, claims, costs, demands and expenses (including, without limitation, legal fees on a full indemnity basis and other costs, charges and expenses in enforcing or attempting to enforce this indemnity) which may be brought against, suffered or incurred by it by reasons of its performance or non-performance of its obligations or duties under the terms of this Deed, the Investment Management Agreement or the Administration Agreement (as the case may be) other than due to its fraud, wilful default or negligence.
- (c) In no event shall the Manager be personally liable for any taxes or other government charges imposed upon or in respect of the Fund's assets or upon the income or gains thereon. The Manager shall be reimbursed and indemnified out of the appropriate assets for all such taxes and charges, for any tax or charge imposed against the Manager and for any expenses, including, without limitation,

legal fees on a full indemnity basis, interest, penalties and additions to tax which the Manager may sustain or incur with respect to such taxes or charges, provided that the Manager shall not be reimbursed or indemnified for taxes imposed on its income derived from its remuneration under this Deed under the laws of Ireland.

- (d) Any indemnity expressly given to the Manager in this Deed shall be in addition to, and without prejudice to, any indemnity to which the Manager may be entitled at law.

## **15.5 Duties of the Trustee**

The Trustee hereby covenants with the Manager that it:

- (a) shall have and perform the following powers and duties hereunder provided that the Trustee shall not be required to follow any Proper Instructions:
  - (i) which would violate the terms of this Deed, the Prospectus or the requirements of any government department or body or any other body with whose requirements (whether legally binding or not) financial institutions in general or the Trustee in particular may be required by law, custom or practice to conform or any applicable law, decree, regulation or order of any government or governmental body (including any court or tribunal) provided that the Trustee shall not be under any obligation to ensure that any instruction received by it would not contravene any of the laws, authorities or documents referred to; or
  - (ii) if there are reasonable grounds for estimating that liabilities to be incurred in the course of following Proper Instructions may not be adequately covered by the assets held for the time being by the Trustee on behalf of the Trust which are available for such purpose; or
  - (iii) if personal liability may be incurred by the Trustee pursuant to following Proper Instructions; or
  - (iv) if any Proper Instructions are unclear or incomplete; or
  - (v) if the Trustee has not received the Proper Instructions before the cut-off times (which it may establish and notify to the Manager consistent with market practice) for such instructions; or
  - (vi) if the Trustee notifies the Manager that Instructions should be delivered to its agent or subcontractor, then the Manager shall ensure that all Instructions are delivered in accordance with that notice;
- (b) shall carry out within Ireland the duties set out in UCITS 4 paragraphs 1 to 6 which shall not be delegated to any third party.
- (c) shall hold for the account of each Sub-Fund, pay out or deal with all uninvested monies of each Sub-Fund on behalf of such Sub-Fund in such manner as may from time to time be stipulated by Proper Instructions;

- (d) shall take into its custody or under its control all Investments and cash and hold them for the account of the Fund in accordance with the provisions of this Deed and the Prospectus and shall endeavour to ensure that cash and registerable assets are registered in the name of or to the order of the Trustee or its authorised agent or in accordance with prevailing market practice. Any cash or security accounts which may be opened in the name of the Trust, must be subject to drawing instructions or orders by the Trustee. If assets are registered in the name of the Trust, they cannot be assigned, transferred, exchanged or delivered without the approval of the Trustee or the applicable sub-custodian. The Trustee and each sub-custodian may deposit securities with, and hold securities in, a Securities System or Central Securities Depository, on such terms as such systems customarily operate;
- (e) shall supply to the Administrator all information required by the Administrator for the calculation of the Net Asset Value of each Sub-Fund;
- (f) upon receipt of Proper Instructions and only in the following circumstances transfer, exchange or deliver securities forming part of the Investments, or cause the transfer, exchange or delivery of such securities:
  - (i) in connection with the sale of such securities in accordance with prevailing market practice;
  - (ii) upon receipt of payment in accordance with any repurchase or redemption agreement relating to investments of any Sub-Fund;
  - (iii) upon conversion of such securities for any reason other than sale into other securities or cash;
  - (iv) as security for any loan or indebtedness incurred on behalf of any Sub-Fund provided always that the value of the assets so delivered is the minimum amount required to secure or to continue the borrowing, as appropriate;
  - (v) for the purpose of exercising any right whatsoever with respect to such securities; or
  - (vi) upon the termination of this Deed to the succeeding Trustee (if any);
- (g) shall take all necessary action, as the Manager may from time to time reasonably request, to respond to all reasonable queries and requests from the Auditors with respect of the assets of the Fund in connection with the preparation of the annual accounts and with respect to any requirements of regulatory authorities from time to time having jurisdiction over the affairs of the Fund or the Trustee;
- (h) upon receipt of Proper Instructions, and in so far as funds held by it on behalf of the Fund are available for the purpose, pay or cause to be paid out the cash in its custody hereunder only:

- (i) upon purchase for the account of the Fund or any Sub-Fund of securities or other property and only against delivery of such securities or property provided that, in the case of securities in respect of which payment is required to be made prior to allotment, or in order to comply with prevailing market practice with respect to settlement procedures, payment may be made prior to delivery of the securities;
  - (ii) in connection with the subscription for, conversion, exchange, tender or surrender of securities as set forth above;
  - (iii) in the case of a purchase effected through a clearing agency in accordance with the regulations or customary practice thereof;
  - (iv) as margin deposits in respect of options, futures or other financial derivatives contracts entered into by the Manager on behalf of the Fund provided that the Trustee and its authorised agents shall be under no responsibility for cash transferred or delivered to any third party for such purpose;
  - (v) for the payment of any management fees or any disbursements owed by or to the Manager in connection with the management of the Sub-Funds;
  - (vi) for the making of any disbursements for the account of any Sub-Fund or the payment of any expense or liability of any Sub-Fund;
  - (vii) for deposit to the account of the Sub-Fund with such bank or other financial institution or in connection with making time deposits in such banks or other financial institutions and in such amounts as shall be notified to the Trustee by Proper Instructions and in the absence of such Proper Instructions, as the Trustee in its absolute discretion may determine;
- (i) receive and transfer to such account as directed by Proper Instructions and in the absence of Proper Instructions as determined by the Trustee in its absolute discretion, all income and other payments of whatever kind accruing to the account of each Sub-Fund in respect of the Investments and, at the request of the Manager, the Trustee shall execute or procure the execution of appropriate ownership and other certificates and affidavits in connection with the collection of such income, setting forth if required in any such certificates or affidavits the name of the relevant Sub-Fund as beneficial owner of such securities and do or instruct its agent to do all other things reasonably necessary or proper in connection with the collection, receipt and deposit of such income, including the presentation for payment of all coupons and other items as appropriate, the presentation for payment of all securities which may be called, redeemed, withdrawn or otherwise become payable and endorsing for collection in the name of the relevant Sub-Fund cheques, drafts and other negotiable or transferable instruments;
  - (j) shall on receipt from the Manager of a settlement of repurchase of Units specifying the number of Units to be repurchased, the relevant Repurchase Price(s), the total amount payable and the currency or currencies in which the

relevant payments are to be made, pay the amount due in the relevant currency (on behalf of the relevant Sub-Fund) to the persons entitled on behalf of the relevant Sub-Fund;

- (k) shall execute all relevant documentation to satisfy any redemptions in kind pursuant to Clause 6.3;
- (l) shall keep or cause to be kept at its premises such books, records and statements as may be reasonably necessary to give a complete record of all the Investments and documents held and transactions carried out by it on behalf of each Sub-Fund and shall permit the Manager or the Administrator or the Auditors to inspect such books, records and statements at all reasonable times;
- (m) shall on receipt of any notice or documentation relating to any of the Investments forthwith forward the same to the Manager or deal with the same in accordance with the directions given by the Manager from time to time;
- (n) shall, if so required by the Manager, and at the expense of the Fund, execute and deliver or cause to be executed and delivered to the Manager or as it may direct such powers of attorney or proxies as may reasonably be required authorising such attorneys or proxies to exercise any rights conferred by, or otherwise act in respect of, all or any part of the Investments;
- (o) shall, if so instructed by Proper Instructions, pay or claim any tax charges or reliefs as the Trustee has been advised are payable or available to be claimed on behalf of the Fund.

#### **15.6 Actions of Trustee not Requiring Proper Instructions**

The Trustee may, without seeking Proper Instructions, but subject to Proper Instructions to the contrary:

- (a) surrender or exchange securities in temporary form or interim receipts for securities in definitive form;
- (b) endorse for collection, in the name of the Fund or any Sub-Fund, cheques, drafts and other negotiable instruments;
- (c) execute or instruct the appropriate sub-custodian to execute in the name of the Fund or any Sub-Fund such ownership and other certificates as may be required to obtain payment or exercise any rights in respect of any securities; accept and open all mail directed to the Fund or any Sub-Fund in care of the Trustee or such sub-custodian and dispose of fractional interests received by the Trustee or such sub-custodian as a result of stock dividends in accordance with local law and practice;
- (d) in general, attend to all administrative or ancillary matters in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the securities and property of the Fund except as otherwise directed by the Manager; and



- (e) make payments in respect of transaction charges, brokerage fees, local taxes, commissions and other payments relating to the assets and its activities as Trustee.

### **15.7 Refusal of Trustee to Invest**

In performing its duties hereunder the Trustee shall be entitled to refuse to effect any investment, realisation or other transaction of whatsoever nature on behalf of the Fund if in the opinion of the Trustee:

- (a) such investment, realisation or other transaction would contravene the investment policies or restrictions adopted by the Fund for the time being, the Prospectus or would be unlawful;
- (b) liabilities to be incurred in the course of such investment, realisation or other transaction may not be adequately covered by the cash or Investments of the Fund held for the time being by the Trustee on its behalf;
- (c) personal liability may be incurred by the Trustee pursuant to such investment, realisation or other transaction; or
- (d) Proper Instructions given to effect such transaction are inadequate or unclear or otherwise do not make fully apparent the intention of the Manager.

### **15.8 Information**

Forthwith after each acquisition or disposal of Investments for the account of the Fund, the Manager shall cause the Trustee to be given Proper Instructions for the transmission of funds or the receipt or delivery of the documents of title to or evidencing ownership of the assets in question specifying such information as may be agreed between the Manager and the Trustee from time to time. Such Proper Instructions as aforesaid shall be given without delay and in the event of a delay or the Trustee having to obtain clarification or unclear or incomplete Proper Instructions the Trustee shall not be liable for any consequence arising therefrom.

### **15.9 Liability of the Trustee and Limitations thereon.**

- (a) The Trustee's Responsibility

The Trustee shall be liable to the Manager and the Unitholders for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of its obligations.

- (b) Indemnity

The Trustee shall be indemnified out of the assets of the Fund and each relevant Sub-Fund and held harmless from and against all or any losses, liabilities, demands, damages, costs, claims or expenses whatsoever and howsoever arising (including, without limitation, acting on Proper Instructions) other than by reason of its unjustifiable failure to perform its obligations or its improper performance of such obligations.

In no event shall the Trustee be personally liable for any taxes or other government charges imposed upon or in respect of the Fund's assets or upon the income or gains thereon. The Trustee shall be reimbursed and indemnified out of the appropriate assets for all such taxes and charges, for any tax or charge imposed against the Trustee or any sub-custodian and for any expenses, including without limitation legal fees on a full indemnity basis, interest, penalties and additions to tax which the Trustee or any sub-custodian may sustain or incur with respect to such taxes or charges, provided that the Trustee shall not be reimbursed or indemnified for taxes imposed on its income derived from its remuneration under this Deed under the laws of Ireland.

Any indemnity expressly given to the Trustee in this Deed shall be in addition to, and without prejudice to, any indemnity to which the Trustee may be entitled at law. The Trustee may extend the benefit of the indemnity provided for in this Clause to any sub-custodian, nominee, agent or Securities System appointed by it.

The Trustee agrees to give notice to the Manager of claims received by it from third parties which may result in the Trustee making a claim under this clause against the Manager.

The Trustee agrees to use reasonable efforts to mitigate any losses arising which may give rise to a claim under this clause.

(c) Acting on Proper Instructions

Subject and without prejudice to paragraph (a), but notwithstanding any other provision of this Deed to the contrary, the Trustee shall be absolutely entitled to rely on and shall not incur any liability in respect of any act or omission in reliance upon Proper Instructions or upon any document believed in good faith by the Trustee to be genuine or, in the absence of manifest error, upon all information supplied to it by the Manager, the Administrator or the Investment Manager or their respective agents or delegates.

(d) Legal Action

The Trustee shall not be required to take any legal action on behalf of the Manager (including in relation to the collection of income for the account of the Fund), unless fully indemnified to its reasonable satisfaction for all costs and liabilities that may be incurred or suffered by the Trustee. Without limiting the generality of the foregoing, if the Manager requires the Trustee to take any action of whatsoever nature which in the reasonable opinion of the Trustee might make the Trustee liable for the payment of money or liable in any other way the Trustee shall be and be kept indemnified in any reasonable amount and form satisfactory to the Trustee as a prerequisite to take such action.

(e) Liability for Taxes

In no event shall the Trustee be personally liable for any taxes or other government charges imposed upon or in respect of the Fund's assets or upon the

income or gains thereon. The Trustee shall be reimbursed and indemnified out of the appropriate assets for all such taxes and charges, for any tax or charge imposed against the Trustee, or any sub-custodian and for any expenses, including, without limitation, legal fees on a full indemnity basis, interest, penalties and additions to tax which the Trustee or any sub-custodian may sustain or incur with respect to such taxes or charges, provided that the Trustee shall not be reimbursed or indemnified for taxes imposed on its income derived from its remuneration under this Deed under the laws of Ireland.

(f) Central Securities Depository/Securities Systems

Subject to paragraph (a) and Clause 15.10 the Trustee is not responsible for any loss arising directly or indirectly as a result of the failure of a Securities System to effect a settlement. The Trustee shall initiate legal proceedings in a court of law in circumstances where the Manager so reasonably requests and indemnifies the Trustee to its satisfaction.

The Trustee shall notify the Manager of any difficulties of which it actually becomes aware regarding the operations of any Securities System which in its opinion may adversely affect the assets of the Fund. Where it is possible for the Trustee to choose between Securities Systems for a particular purpose it shall notify the Manager of the Securities System chosen by it.

For the avoidance of doubt references to the "Trustee" in the preceding paragraph shall not include any sub-custodian, nominee or agent of the Trustee.

(g) Payment and Delivery Instructions

In some securities markets, deliveries of securities and other assets and payment therefor may not be or are not customarily made simultaneously. Accordingly, the Manager agrees that, the Trustee or a sub-custodian may make or accept payment for or delivery of assets in such form and manner as shall be in accordance with the customs prevailing in the relevant market or among securities dealers provided that where (x) instructions to deliver against payment or pay against delivery may be complied with and (y) such practice reflects the customs prevailing in the market and (z) the Manager has instructed the Trustee to so pay or deliver, the Trustee shall so pay or deliver. Subject as hereinbefore provided the Fund shall bear the risk that:

- (i) Subject and without prejudice to paragraph (a) the recipient of assets of the Fund delivered by the Trustee or any sub-custodian may fail to make payment, return such assets or hold assets or the proceeds of their sale in trust for the Fund; and
- (ii) the recipient of payment for assets made by the Trustee or any sub-custodian may fail to deliver the assets (such failure to include, without limitation, delivery of forged or stolen assets) or to return such payment, in each case whether such failure is total or partial or merely a failure to perform on a timely basis.

Subject and without prejudice to paragraph (a) neither the Trustee nor any sub-custodian shall be liable to the Fund for any loss resulting from any of the foregoing events, provided that they shall have acted in good faith in making any such delivery or payment.

(h) Reversals

In some jurisdictions, deliveries of securities may be reversed under certain circumstances. Accordingly, credits or securities to the Fund's account are provisional and subject to reversal if, in accordance with relevant local law and practice, the delivery of the security giving rise to the credit is reversed.

(i) Foreign Currency Risks

The Fund shall bear all risks of investing in securities or holding cash denominated in any currency other than that of the Fund's home jurisdiction and/or the Fund's accounting currency. Without limiting the foregoing, the Fund shall bear the risks that rules or procedures imposed by Securities Systems, exchange controls, asset freezes or other laws or regulations shall prohibit or impose burdens or costs on the transfer to, by or for the account of the Fund of securities or cash held or the conversion of cash from one currency into another currency. The Trustee shall not be obliged to substitute another currency for a currency whose transferability, convertibility or availability has been affected by such law, regulation, rule or procedure. Subject and without prejudice to paragraph (a) neither the Trustee nor any sub-custodian shall be liable to the Fund for any loss resulting from any of the foregoing events.

(j) Force Majeure

Notwithstanding any other provision contained herein, the Trustee shall not be liable for any action taken, or any failure to take any action required to be taken hereunder or otherwise to fulfil its obligations hereunder (including without limitation the failure to receive or deliver securities or the failure to receive or make any payment) in the event and to the extent that the taking of such action or such failure arises out of or is caused by war, insurrection, riot, civil commotion, act of God, accident, fire, water damage, explosion, mechanical breakdown, computer or system failure or other failure of equipment, or malfunction or failures caused by computer virus, failure or malfunctioning of any communications media of whatever reason, interruption (whether partial or total) of power supplies or other utility of service, strike or other stoppage (whether partial or total) of labour, any law, decree, regulation or order of any government or governmental body (including any court of tribunal), or any other cause (whether similar or dissimilar to any of the foregoing) whatsoever beyond its reasonable control or the reasonable control of any sub-custodian provided that this paragraph shall not apply in relation to failure or malfunctioning of any internal systems of the Trustee (whether purchased or internally developed) to the extent that the failure or malfunctioning of such system is beyond the reasonable control of the Trustee or to any strike or stoppage (whether partial or total) of labour of employees of the Trustee involved in the provision of services pursuant to this agreement as part of a labour dispute and the Trustee shall use reasonable

efforts (including the putting in place of business continuity plans) to minimise the effects of such event or events.

(k) **Manager's Reporting Obligations**

The Manager shall be solely responsible for compliance with any notification or other requirement of any jurisdiction relating to or affect the Fund's beneficial ownership of securities and the Trustee assumes no liability for non-compliance with such requirements.

(l) **No Investment Advice**

Neither the Trustee nor any sub-custodian is under any duty to provide the Manager with investment advice.

(m) **Fraudulent Securities**

Subject and without prejudice to paragraph (a), the Trustee shall have no liability for losses incurred by the Fund or any other person as a result of the receipt or acceptance or delivery to or on behalf of the Trustee of fraudulent, forged or invalid securities (or securities which are otherwise not freely transferable or deliverable without encumbrance in any relevant market) and provided that the Trustee has acted in good faith and in accordance with the prevailing market practice.

(n) **No Trusts**

The Trustee shall not be bound by any notice actual or constructive of any trust or other right or interest of any third party over or affecting the assets held hereunder.

### **15.10 Nominees, Agents, Sub-Custodians and Advisers**

- (a) The Trustee may from time to time appoint and/or use one or more nominees, agents, sub-custodians or Securities Systems (including, without limitation, an Associate) to perform in whole or in part any of the custodial duties or discretions of the Trustee. The Trustee's liability shall not be affected by the fact that it has entrusted to a third party some or all of the assets in its safekeeping.
- (b) The parties hereto consider the Financial Regulator considers that in order for the Trustee to discharge its responsibility under the UCITS Regulations, the Trustee must exercise care and diligence in choosing and appointing such third parties as safekeeping agents so as to ensure that the third party has and maintains the expertise, competence and standing appropriate to discharge the responsibilities concerned. The Trustee shall maintain an appropriate level of supervision over the third party as safekeeping agent and make appropriate enquiries from time to time to confirm that the obligations of the safekeeping agent continue to be competently discharged. This does not purport to be a legal interpretation of the UCITS Regulations and the corresponding provisions of the Directive

For the avoidance of doubt, a clearing broker with which margin assets are deposited in respect of futures and/or options contracts shall not be a sub-custodian or agent of the Trustee for such purpose and the Trustee shall not be responsible for margin assets transferred to or placed with such clearing brokers, provided the Trustee has acted in accordance with Proper Instructions in relation to such assets of a Sub-Fund transferred to such clearing brokers for payment of margin due at the time of transfer or for amounts which may be placed with such clearing brokers and utilised for the Sub-Funds trading in such futures and options. For the purposes of this Deed references herein to “sub-custodians” shall include sub-custodians appointed by the Trustee and nominees of such sub-custodians or of the Trustee itself.

- (c) As the Fund may invest in markets where custodial and/or settlement systems are not fully developed, the assets of the Fund which are traded in such markets and which have been entrusted to sub-custodians, in circumstances where the use of such sub-custodians is necessary, may be exposed to risk in circumstances whereby the Trustee will have no liability. Details of potential risks to Unitholders will be set out in full in the Prospectus in accordance with the requirements of the Financial Regulator.
- (d)
- (e) The Trustee shall, upon request, inform the Manager and keep it informed of nominees, agents and sub custodians for the time being so appointed.
- (f) Subject and without prejudice to paragraph (a), the Trustee in the performance of its duties and in the exercise of any of the powers and discretions vested in it hereunder may act or rely upon the opinion or advice or any information obtained from any solicitor, barrister or other professional and qualified expert (hereinafter called an “Expert”) whether reporting to the Manager or to the Trustee and the Trustee shall not, in the absence of negligence or wilful default in selection an Expert, be responsible for the correctness of any such opinion or advice or information or for any loss occasioned by its so acting or relying.

#### **15.11 Administrator**

The Manager may, subject to the approval of the Financial Regulator, appoint any person, firm or corporation to act as Administrator of the Fund in accordance with the terms of the Administration Agreement and may entrust to and confer upon the Administrator so appointed any of the relevant powers, duties, discretions and/or functions exercisable by it as Manager, upon such terms and conditions (including the right to remuneration payable out of the assets of the Fund) and with such powers of delegation and such restrictions as it thinks fit and either collaterally with or to the exclusion of its own powers PROVIDED THAT in the event that the Administrator shall resign or be dismissed or his appointment shall otherwise terminate the Manager shall endeavour to appoint, in accordance with the requirements of the Financial Regulator, some other person firm or corporation to act as Administrator in his place.

#### **15.12 Investment Manager**

The Manager may appoint any person, firm or corporation to act as Investment Manager of the Fund in accordance with the terms of the Investment Management Agreement

and may entrust to and confer upon the Investment Manager so appointed any of the relevant powers duties discretions and/or functions exercisable by it as Manager, upon such terms and conditions and with such powers of delegation and such restrictions as it thinks fit and either collaterally with or to the exclusion of its own powers, PROVIDED THAT in the event that the Investment Manager shall resign or be dismissed or his appointment shall otherwise terminate the Manager shall endeavour to appoint, in accordance with the requirements of the Financial Regulator, some other person firm or corporation to act as Investment Manager in his place.

## **SECTION 16.0 - FEES AND EXPENSES**

### **16.1 General**

The fees and expenses of the Manager (exclusive of any value added tax thereon), shall not, in relation to any Sub-Fund exceed 5% of the Net Asset Value of such Sub-Fund without the consent by way of Resolution of the Unitholders thereof.

### **16.2 Fees and Expenses of Manager and Administrator**

The Manager and Administrator shall be entitled to such fees and expenses (including such performance fees payable to the Investment Manager as the case may be) as are disclosed from time to time in the Prospectus and agreed in writing with the Manager together with all value added tax thereon. Such fees will be determined on the last Dealing Day of each month. Such fees will be accrued on a daily basis and such fees will be paid monthly in arrears.

### **16.3 Remuneration and Funding of Trustee**

- (a) Subject to Clause 16.1 the Trustee shall be entitled to such fees and expenses as are provided for in the Prospectus and agreed in writing with the Manager together with all value added tax thereon, all such sums being payable monthly in arrears within 14 days from the date of the invoice of such fees.
- (b) Provided the Manager has not raised any objection to any assessment or expenses specified in the invoice furnished pursuant to paragraph (a) hereof (not including the remuneration of the Trustee) the Trustee is authorised to deduct its remuneration, expenses and disbursements on account of the Fund including, without limitation, any tax paid or to be paid on behalf of the Fund from any one or more of the Fund's cash accounts held with it. The Manager shall make available sufficient cleared funds in an account or accounts with the Trustee in order to cover the Trustee's fees, expenses and disbursements as aforesaid and to enable the Trustee to fulfil its duties under this Deed.
- (c) All amounts payable by the Manager out of the assets of the Fund to the Trustee under this Deed shall carry interest from the due date of payment up to and including the date of actual payment at such rate as may from time to time be agreed between the Manager and the Trustee, such interest to accrue from day to day as well after as before judgment and any such amounts payable in respect of interest and any other amounts payable whatsoever or howsoever arising pursuant

to any of the provisions of this Deed may be debited by the Trustee from the Fund's account.

#### **16.4 Right of Trustee to Retain and Set-Off**

If at any time the Manager shall not have honoured any and all obligations to the Trustee or any sub-custodian or Securities System for any unpaid sum due to the Trustee out of the assets of the Fund or any sub-custodian or Securities System for or in connection with services rendered hereunder whether by way of an extension of credit or otherwise, the Trustee and any sub-custodian or Securities System shall have the right without notice to the Manager to retain or set-off, against such obligations, any assets of the Fund the Trustee or any sub-custodian or Securities System may hold directly or indirectly for the account of the Fund, in any currency including time deposits and all securities held hereunder. Any such asset or obligation of the Fund may be transferred among the Trustee and any subsidiary of the Trustee or any company part of the share capital of which is held or controlled by the Trustee in order to effect such rights. The rights set out in this Clause shall be in addition and without prejudice to any rights existing at common law, in equity, by statute or custom. The Trustee may extend the rights conferred by this Clause to any sub-custodian, nominee, agent or Securities System appointed by it. The Trustee agrees to give notice to the Manager where the Trustee itself exercises such rights provided that the Trustee shall also be obliged to give such notice in respect of the exercise of this right by a sub-custodian or Securities System where it becomes aware of such exercise.

#### **16.5 Stock Lending Fee**

The Manager shall be entitled to receive fees and expenses for its stock lending service. The fees may be by way of a flat annual payment or be based on a percentage of the income earned.

#### **16.6 Charges against Fund**

Without prejudice to any other charges, fees, expenses or liabilities authorised by this Deed to be charged against Unitholders or against the Fund there shall be payable out of the Fund (together with VAT thereon where applicable):

- (a) the fees and reasonable out of pocket expenses payable to the Manager, the Investment Manager (where relevant), the Administrator, the Trustee and any sub-custodian appointed in respect of such Sub-Fund (including sub-custodial fees and expenses at normal commercial rates);
- (b) any fees in respect of circulating details of the Net Asset Value (including publishing prices) and Net Asset Value per Unit;
- (c) stamp duties;
- (d) taxes;
- (e) rating fees (if any);



- (f) brokerage or other expenses of acquiring and disposing of Investments;
- (g) fees and expenses of the auditors, tax, legal and other professional advisers;
- (h) fees connected with listing of Units on any stock exchange;
- (i) the Financial Regulator's industry funding levy;
- (j) fees and expenses in connection with the distribution of Units and costs of registration of the Fund in jurisdictions outside Ireland;
- (k) costs of preparing, printing and distributing the Prospectus, Supplements, any simplified prospectus issued in accordance with the UCITS Regulations, reports, accounts and any explanatory memoranda;
- (l) any necessary translation fees;
- (m) any costs incurred as a result of periodic updates of the Prospectus, any Supplements, any simplified prospectus issued in accordance with the UCITS Regulations or of a change in law or the introduction of any new law (including any costs incurred as a result of compliance with any applicable code, whether or not having the force of law);
- (n) any other fees and expenses relating to the management and administration of the Fund or attributable to the investments of the Sub-Funds;
- (o) in respect of each financial year of the Fund in which expenses are being determined, such proportion (if any) of the establishment and reconstruction expenses as are being amortised in that year.

## **16.7 Allocation of Fees and Expenses**

All fees, duties and charges will be charged to the Sub-Fund (or class thereof) in respect of which they were incurred or, where an expense is not considered by the Manager to be attributable to any one Sub-Fund, the expenses will normally be allocated to classes of all Sub-Funds pro rata to the value of the Net Assets of the relevant Sub-Funds. In the case of any fees or expenses of a regular or recurring nature, such as audit fees, the Manager may calculate such fees and expenses on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any period.

## **SECTION 17.0 - CONFLICTS**

### **17.1 Permitted Interests**

Nothing herein contained shall prevent:

- (a) the Manager, the Trustee, the Administrator, the Investment Manager or any Subsidiary or Holding Company thereof or any director, partner, officer or agent thereof (hereinafter called the "Interested Party") from becoming the owner of Units and holding, disposing of or otherwise dealing with the same and with the

same rights which it would have had if the Manager or the Trustee, (as the case may be) were not a party to this Deed and the Interested Party may buy, hold and deal in any securities upon its own account notwithstanding that same or similar securities may be held by or for the account or otherwise connected with the Fund and no persons so interested shall be liable to account for any benefit to any other party by reason solely of such interest;

- (b) an Interested Party from selling securities to, purchasing securities from or vesting securities in or on behalf of any Sub-Fund PROVIDED THAT any such sale or purchase of securities or other transaction is in the best interests of Unitholders, is made on terms no less favourable to the Sub-Fund than could reasonably have been obtained by the Sub-Fund if the sale or purchase or transaction had been effected on normal commercial terms negotiated at arm's length and, in the case of a sale or purchase of securities of property for the account of the Sub-Fund:
  - (i) a certified valuation of such transaction by a person approved by the Trustee (or the Manager in the case of a transaction with the Trustee) as independent and competent has been obtained; or
  - (ii) such transaction has been executed on best terms on an organised investment exchange in accordance with the rules of such exchange; or
  - (iii) where (i) or (ii) are not practicable, such transaction has been executed on terms which the Trustee (or the Manager in the case of a transaction with the Trustee) is satisfied are carried out as if effected on normal commercial terms negotiated at arm's length;
- (c) an Interested Party from completing a transaction which is made pursuant to a contract effected in the normal manner on a stock exchange or other market where the purchaser or the vendor is undisclosed at the time;
- (d) an Interested Party from acquiring, holding or disposing of securities notwithstanding that such securities have been acquired at prices lower than those paid by or on behalf of any Sub-Fund in respect of the acquisition of securities of the same class in any company or disposed of at prices higher than those received by or on behalf of the Sub-Fund by virtue of a transaction effected or on behalf of the Fund at or about the same time in which the Interested Party was concerned and the Interested Party shall be entitled to retain for its own benefit any profit or benefit derived therefrom provided that the acquisition by an Interested Party of such securities is in accordance with the terms and conditions on which such securities have been offered or made available on arm's length basis and that securities of the same class held by or on behalf of the Fund were acquired on the best terms.
- (e) an Interested Party from continuing or agreeing to act as manager or registrar for other persons or providing administration or registration services for other clients without making the same available to the Manager on behalf of the Sub-Fund.

In the event that a conflict of interest does arise, the directors of the Manager will endeavour, so far as it is able, to ensure that it is resolved fairly.

## **SECTION 18.0 - RETIREMENT OR REMOVAL OF THE TRUSTEE/MANAGER**

### **18.1 Retirement of Trustee**

- (a) The Trustee shall not be entitled to retire voluntarily except upon the appointment of a new Trustee.
- (b) In the event of the Trustee desiring to retire, the Manager shall endeavour to find a new trustee who is a qualified corporation to act as trustee and, provided that such new trustee is acceptable to the Manager and has received prior approval for appointment by the Financial Regulator, and agrees to enter into such deed(s) as are required by the Manager to secure the due performance of the new trustee's duties, the Manager shall, by deed, appoint such new trustee to be the Trustee in the place of the retiring Trustee.

### **18.2 Removal of Trustee by Manager**

The Manager may remove the Trustee by notice in writing given by the Manager in any of the following events:

- (a) if the Trustee goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Manager) or if an examiner is appointed to it or a receiver appointed over any part of its assets;
- (b) if for good and sufficient reason the Manager is of opinion and so states in writing to the Trustee that a change of Trustee is desirable in the interests of the Unitholders.

Notwithstanding the foregoing, the termination of the appointment of the Trustee by the Manager is only permissible on the appointment of a successor Trustee or on the revocation of the authorisation of the Fund and the Trustee shall, upon notice by the Manager as aforesaid, ipso facto cease to be the Trustee provided that the Manager shall (with the prior consent of the Financial Regulator) by writing, under its seal, appoint as Trustee some other qualified corporation subject to such corporation entering into such deeds as are required by the Manager to secure the due performance of the new trustee's duties.

### **18.3 Retirement of Manager**

The Manager shall have power to retire in favour of some other qualified corporation (whose appointment has received the prior approval of the Financial Regulator and the Trustee) upon and subject to such corporation entering into such deeds as are required by the Trustee to secure the due performance of the new manager's duties as manager. Upon such deed(s) being entered into and upon payment to the Trustee of all sums due by the retiring Manager to the Trustee under this Deed at the date thereof, the retiring Manager shall be absolved and released from all further obligations hereunder but without prejudice to the rights of the Trustee or of any other person in respect of any act or omission on the part of the Manager prior to such retirement.

#### **18.4 Removal of Manager by Trustee**

- (a) The Trustee may remove the Manager by notice in writing given by the Trustee if the Manager goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustee) or if an examiner is appointed or a receiver is appointed over any part of its assets);
- (b) In the event described at (a) above, the Manager shall, upon notice by the Trustee as aforesaid, ipso facto cease to be the Manager and as soon as practicable thereafter the Trustee shall (with the prior approval of the Financial Regulator) by writing under its seal, appoint as Manager some other qualified corporation subject to such corporation entering into such deed(s) as are required by the Trustee to secure the due performance of the new manager's duties as manager and which deed(s) shall provide (inter alia) that the new manager shall purchase from the former Manager the Units of each class of which the former Manager is or is deemed to be the holder at the Redemption Price applicable to the redemption of Units on the relevant Dealing Day(s).

#### **18.5 Notice to Unitholders**

The Trustee or (as the case may be) the new Trustee shall, as soon as practicable after the appointment of a new Trustee or a new Manager give notice to the Holders specifying the name and the address of the offices of the new Trustee, or new Manager (as the case may be).

### **SECTION 19.0 - TERMINATION**

#### **19.1 Termination**

- (a) A Sub-Fund may be terminated if the holders of 75% in value of the issued Units of the Sub-Fund approve the redemption at a meeting of the Sub-Fund of which not more than twelve and not less than four week's notice has been given.
- (b) All the Units of any Sub-Fund may be redeemed at the discretion of the Manager, if, after the first anniversary of the first issue of the Units in that Sub-Fund, the Net Asset Value of that Sub-Fund falls, for a period of 90 consecutive days or more, below €250,000,000 or its foreign currency equivalent.
- (c) The Fund or a Sub-Fund may be terminated by the Trustee by notice in writing to the Manager as hereinafter provided on the occurrence of the following events, namely:
  - (i) if the Manager shall go into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustee) or ceases business or if an examiner is appointed to it or a receiver appointed over any part of its assets;

- (ii) if in the reasonable opinion of the Trustee the Manager shall be incapable of performing or shall in fact fail to perform its duties satisfactorily or shall do any other thing which in the opinion of the Trustee is intended to bring the Fund into disrepute or to be harmful to the interests of the Unitholders;
  - (iii) if any law shall be passed which renders it illegal or in the reasonable opinion of the Trustee impracticable or inadvisable to continue the Fund; or
  - (iv) if within six months from the date of the Trustee expressing in writing to the Manager its desire to retire, a qualified person acceptable to the Manager and the Financial Regulator to act as new trustee has not been appointed.
- (d) The Fund or a Sub-Fund may be terminated by the Manager in its absolute discretion by notice in writing to the Trustee as hereinafter provided on the occurrence of the following events namely:
  - (i) if the Fund shall cease to be authorised as a Unit Trust under the UCITS Regulations;
  - (ii) 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
  - (iii) if within three months from the date of the Manager expressing in writing to the Trustee its desire to retire, a qualified person acceptable to the Trustee and the Financial Regulator to act as new manager has not been appointed; or
  - (iv) all of the Units of each Sub-Fund have been redeemed.
- (e) The party terminating the Fund or any relevant Sub-Fund shall give notice thereof to the Unitholders affected thereby in the manner herein provided and by such notice fix the date on which such termination is to take effect which day shall not be less than one month after the service of such notice.

## **19.2 Procedure on Termination**

Upon the Trust being terminated, the Trustee shall at its discretion distribute, to the Unitholders in each Sub-Fund pro rata to the number of Units in each Sub-Fund held by them respectively all net cash proceeds derived from the realisation of the Investments (or by agreement between the Trustee, the Manager and any individual Unitholder transfer to the Unitholder Investments provided that the value thereof shall not exceed the amount which would otherwise be payable in cash) and any other cash then forming part of Sub-Fund and available for the purpose of such distribution, provided that the Trustee shall be entitled to retain out of any monies in its hands under the provisions of this Clause full provision for all duties and charges and all other necessary expenses accrued relating to such Sub-Fund which the Trustee is or may become liable in connection with the sale of Investments and with such distribution as aforesaid. On a winding up of all the Sub-Funds, the balance of any assets of the Fund then remaining,

not comprised in any of the Sub-Funds shall be apportioned as between Sub-Funds pro rata to the net asset value of each Sub-Fund immediately prior to any distribution to Unitholders which shall be distributed amongst the Unitholders of each Sub-Fund pro rata to the number of Units in that Sub-Fund held by them. Every such distribution shall be made only after the production of evidence of title to the Units to the satisfaction of the Trustee together with such form of request for payment and receipt as the Trustee shall in its absolute discretion require. Any unclaimed net proceeds or other cash held by the Trustee under the provisions of this Clause 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 Trustee to deduct therefrom any expenses it may incur in carrying out this provision. Unitholders' distribution proceeds may contain an income element, equivalent to that part of the Net Asset Value of the Unit which reflects the accrued income (if any) to the date of the termination.

### **19.3 Rights after Termination**

After the Trust has been terminated but notwithstanding the same in relation to the Trust the Trustee may exercise its powers and carry out its duties under this Deed and shall otherwise continue to have the benefit of and be subject to the provisions of this Deed (and, in particular but without limitation, any indemnity in favour of the Trustee) and to be entitled to exercise all its powers, duties, authorities and discretions hereunder until all of the assets of each Sub-Fund shall have been distributed to the Unitholders thereof or any unclaimed net proceeds or other cash paid into court (whichever is the later) pursuant to this Clause.

## **SECTION 20.0 - MEETINGS**

### **20.1 Convening of Meetings**

- (a) The Trustee or the Manager only may convene a meeting of Unitholders of the Fund or any Sub-Fund at any time.
- (b) Some person (who need not be a Unitholder or a representative of a Unitholder) nominated in writing by the Manager shall preside as Chairman at every meeting and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting the Unitholders present shall choose one of their number to be Chairman.

### **20.2 Notice**

Not less than fourteen (14) days' notice in writing of every meeting must be given to Unitholders. The notice shall specify the place, day and hour of the meeting and terms of the resolution to be proposed. A copy of the notice shall be sent by post to the Trustee unless the meeting shall be convened by the Trustee. A copy of the notice shall be sent by post to the Manager unless the meeting shall have been convened by the Manager. The accidental omission to give notice to or the non-receipt of notice by any of the Unitholders shall not invalidate the proceedings at any meeting.

### **20.3 Quorum**

A quorum at any meeting of the Fund or any Sub-Fund shall be two Unitholders present in person or by proxy. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.

### **20.4 Resolutions at Meetings**

All business transacted at a meeting of Unitholders of the Fund or any Sub-Fund duly convened and held shall be by way of Resolution i.e. by a simple majority of the Unitholders present in person or by proxy (save where such business requires to be transacted in any other manner pursuant to this Deed) unless before or on the declaration of the result of the show of hands, a poll is duly demanded by the Chairman or by one or more Unitholders present in person or by proxy and holding or representing one-twentieth of the number of Units for the time being in issue. On a poll, the holder of each Unit shall be entitled to one vote per Unit.

### **20.5 Written Resolutions**

A Resolution in writing executed by or on behalf of each Unitholder who would have been entitled to vote upon it if it had been proposed at a meeting at which he was present shall be as effectual as if it had been passed at a meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Unitholders. In the case of a corporation a resolution in writing may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.

## **SECTION 21.0 - AUDITORS AND ACCOUNTS**

### **21.1 Appointment and Removal of Auditors**

The Manager shall have the power of appointment and removal of any Auditors. Any Auditors shall be independent of the Manager and the Trustee.

### **21.2 Furnish Reports to Unitholders**

The Manager shall procure to be forwarded to the Unitholders as often as the Financial Regulator may specify from time to time reports which contain as a minimum such information as the Financial Regulator may require.

### **21.3 Auditors' Report**

The Manager shall procure that the annual accounts of the Fund and each Sub-Fund shall be audited by the Auditors and they shall be accompanied by a report by the Auditors to the effect that the accounts and statements attached thereto have been examined with the books and records of the Trust and of the Manager in relation thereto and that the Auditors have obtained all the explanations and information they have required. The Auditors shall further report whether the accounts and the accompanying statement are in their opinion properly drawn up in accordance with such books and records to disclose the profits or losses accruing to the Trust.

## **21.4 Trustee's Report**

The annual accounts shall include the Trustee's Report as required by the Financial Regulator.

## **21.5 Costs**

The costs and expenses of the audit shall be payable out of the Fund.

# **SECTION 22.0 - MISCELLANEOUS**

## **22.1 Destruction of Documents**

The Trustee or the Manager or any other person on behalf of the Trustee shall (subject as hereinafter provided) be entitled to destroy:

- (a) all instruments of transfer which have been registered at any time after the expiration of seven years from the date of registration thereof;
- (b) all certificates and distribution mandates which have been cancelled at any time after the expiration of three years from the date of cancellation thereof;
- (c) all notifications of change of address after the expiration of three years from the date of the recording thereof;
- (d) all forms of proxy in respect of any meeting of Unitholders after the expiration of three years from the date of the meeting at which the same are used; and
- (e) all registers, statement and other records and documents relating to the Trustee at any time after the expiration of six years from the termination of the Trust.

Neither the Trustee nor the Manager nor any such other person as aforesaid shall be under any liability whatsoever in consequence thereof and unless the contrary be proved every instrument of transfer so destroyed shall be deemed to have been a valid and effective instrument duly and properly registered and every certificate so destroyed shall be deemed to have been a valid certificate duly and properly cancelled and every other document hereinbefore mentioned so destroyed shall be deemed to have been a valid and effective document in accordance with the recorded particulars thereof, provided that:

- (i) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (ii) nothing in this paragraph shall be construed as imposing upon the Trustee or the Manager or any such other person as aforesaid any liability in respect of the destruction of any document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and



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

## **22.2 Indemnity and Liability of Manager and Trustee**

Any indemnity expressly given to the Trustee or to the Manager in this Deed is in addition and without prejudice to any indemnity allowed by law, provided that nothing in any of the provisions of this Deed shall, in any case in which the Trustee or the Manager (as the case may be) has failed to show the degree of diligence and care required of it by the provisions of this Deed, exempt it from or indemnify it against any liability for breach of trust or any liability which by virtue of any rule of law would otherwise attach to it in respect of any fraud, negligence, default or breach of duty or trust of which it may be guilty in relation to its duties.

## **22.3 Delivery of Notices or Documents**

- (a) All notices or other documents directed to be given or sent by the Trustee or the Manager to a Unitholder and all cheques, warrants, payments or transfers directed to be sent or made by the Trustee or the Manager to such Unitholder shall (unless the Trustee or the Manager as the case may require be otherwise directed in writing) be sent by post or made to him at his address as appearing on the Register and in the case of joint Unitholders shall be sent or made to whomsoever of such Unitholders is named first on the Register. A notice so given shall be sufficient notice to all such joint Unitholders.
- (b) Any notice shall be deemed to have been received by the Unitholder on the second day following the day on which the same was posted and in proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice was posted.
- (c) In the case of the death of any person registered as a joint Unitholder the survivor or survivors shall be the only persons recognised by the Trustee as having any title to or interest in the Units in question.

## **22.4 Notices to Manager and Trustee**

- (a) Notices to the Manager should be marked for the attention of the Secretary and may be delivered or dispatched by post to the Manager at its registered office and a copy faxed to BlackRock Advisors (UK) Limited at fax number + 353 1 6395 333 and to such other addresses or fax numbers as the Manager may from time to time have designated in writing to the Trustee. Such a notice shall be deemed to have been properly delivered or given hereunder and shall be effective on the date of delivery if delivered or if telefaxed or faxed upon receipt of a notice in legible form or, if dispatched by post 7 Business Days after the same has been posted.
- (b) Notices to the Trustee should be marked for the attention of "Client Officer" and may be delivered or dispatched by post to the Trustee at JPMorgan House International Financial Services Centre, Dublin 1 or may be faxed to the Trustee at fax number + 353 1 612 3132 and to such other address or telex or fax numbers as may be notified in writing by the Trustee to the Manager. Such notices shall be

deemed to have been properly delivered or given hereunder and shall be effective on the date of delivery if delivered, or if telexed or faxed upon receipt of a notice in legible form or if dispatched by post, 7 Business Days after the same has been posted.

- (c) Dispatch of notices sent by fax including, for the avoidance of doubt, Proper Instructions shall be confirmed in original form by the address or provided that non-receipt by the Trustee of such confirmation shall not invalidate such notices.

## **22.5 Deed Binding on all Parties**

The terms and conditions of this Deed and of any Deed supplemental hereto shall be binding on each Unitholder and all persons claiming through him as if each such Deed had been executed by each Unitholder and contained covenants on the part of each Unitholder to observe and be bound by all the provisions of such Deed and an authorisation by each Unitholder and the Manager respectively to do all such acts and things as such Deed may require or empower the Trustee or the Manager (as the case maybe) to do.

## **22.6 Trust Deed Available for Inspection**

A copy of this Deed and of any Deeds supplemental hereto shall at all times during usual business hours be made available by the Manager through the Administrator at its registered office for inspection by Unitholders and intending purchasers of Units and any Unitholder shall be entitled to receive from the Administrator a copy of such Deeds aforesaid on production of such evidence of title to Units as the Administrator may require and on making request therefor to the Administrator, the Administrator shall on demand and at its own expense supply to the Trustee such copies of such Deeds as the Trustee may from time to time require. Instead of supplying copies of this Deed and any Deeds supplemental hereto the Administrator shall be entitled to supply copies of this Deed as amended by such Deeds supplemental hereto.

## **22.7 Modification of Trust Deed**

- (a) The Trustee and the Manager shall, subject to the prior approval of the Financial Regulator, be entitled at any time, and from time to time, modify, alter or add provisions to this Deed provided that the Trustee shall certify in writing that in its opinion, the modification, alteration or addition:
  - (i) does not materially prejudice the interests of Unitholders or operate to release to any material extent the Trustee or the Manager from any responsibility to the Unitholders; and/or
  - (ii) is required in order to comply with any provision of the UCITS Regulations or any regulation made pursuant thereto or any other applicable statutory or fiscal enactment or requirement or any practice or requirement of any government or fiscal or revenue authority (whether or not having the force of law) including without limitation any requirement imposed by the Financial Regulator;

- (b) No other modification, alteration or addition, may be made without the sanction of a Resolution of Unitholders. No such modification, alteration or addition may impose any obligation on any Unitholder to make any further payment or accept any liability in respect of his Units.

## **22.8 Governing Law**

This Deed shall in all respects be governed by and construed in accordance with the laws of Ireland.

## **22.9 Certificate of Trustee**

In accordance with Clause 22.7 of the Original Deed, the Trustee hereby confirms that, in its opinion, the modifications, alterations and additions to the Original Deed as set out in this Deed do not materially prejudice the interests of Unitholders or operate to release to any material extent the Trustee or the Manager from any responsibility to the Unitholders.

## **22.10 Counterparts**

The Deed may be executed in any number of counterparts and by each of the parties hereto on separate counterparts each of which when executed and delivered shall constitute an original all such counterparts together constituting but one and the same instrument.

IN WITNESS whereof these presents have been entered into the day and year first herein written.

## APPENDIX

### Stock Exchanges and Regulated Markets

With the exception of permitted investments in unlisted securities, the Fund will only invest in securities traded on a stock exchange or market which meets with the regulatory criteria (regulated, operate regularly, be recognised and open to the public) and which are listed in the Prospectus. The stock exchanges and/or markets listed in the Prospectus will be drawn from the following list, it being noted that the Financial Regulator does not issue a list of approved markets and exchanges.

1. All stock exchanges in a Member State of the European Union.
2. All stock exchanges in the remaining member states of the EEA.
3. A stock exchanges located in any of the following countries:
  - Australia
  - Canada
  - Japan
  - Hong Kong
  - New Zealand
  - Switzerland
  - USA
4. Any approved derivative market within the EEA, Australia, Canada, Japan, Hong Kong, New Zealand, Switzerland and the United States.
5. The following stock exchanges:

Albania	Tirana Stock Exchange
Algeria	Algiers Stock Exchange
Argentina	Buenos Aires Stock Exchange
	Mercado Abierto Electronico S.A.
Armenia	Armenian Stock Exchange
Azerbaijan	Baku Stock Exchange
Bahamas	Bahamas International Stock Exchange
Bahrain	Bahrain Stock Exchange
Bangladesh	Chittagong Stock Exchange
	Dhaka Stock Exchange
Barbados	Barbados Stock Exchange
Belarus	Belarus Stock Exchange
Belize	Belize International Stock Exchange
Bermuda	Bermuda Stock Exchange
Bhutan	Royal Securities Exchange of Bhutan
Bolivia	Bolsa de Bolivianna de Valores
Bosnia and Herzegovina	Sarajevo Stock Exchange
Botswana	Botswana Stock Exchange
Brazil	Sao Paulo Stock Exchange
	Rio de Janeiro Stock Exchange
	Bolsa de Mercadorias & Futuros

Brunei	Maracaibo Stock Exchange
Cayman Islands	International Brunei Exchange
Chile	Cayman Islands Stock Exchange
	Bolsa de Comercio de Santiago
	Bolsa Electronica de Chile
	Bolsa de Corredores de Valparaiso
China	Shanghai Stock Exchange
	Shenzhen Stock Exchange
Colombia	Bolsa de Valores de Colombia
	Medellin Stock Exchange
Costa Rica	Costa Rica Stock Exchange
	Bolsa de Valores Nacional SA
Croatia	Zagreb Stock Exchange
Cuba	Cuba Stock Exchange
Ecuador	Guayaquill Stock Exchange
	Quito Stock Exchange
Egypt	Cairo Stock Exchange
El Salvador	Bolsa de Valores de El Salvador
Fiji	South Pacific Stock Exchange
Georgia	Georgian Stock Exchange
Ghana	Ghana Stock Exchange
Guatemala	Bolsa de Valores Nacional
Guernsey, Jersey	Channel Islands Stock Exchange
Honduras	Bolsa Centroamericana de Valores, S.A.
	Bolsa Hondurena de Valores
India	National Stock Exchange of India Ltd.
	Bombay Stock Exchange Ltd.
	Madras Stock Exchange Ltd.
	The Delhi Stock Exchange Association Ltd.
	Pune Stock Exchange Ltd.
	Uttar Pradesh Stock Exchange Association Ltd.
	Magadh Stock Exchange Ltd.
	The Gauhati Stock Exchange Ltd.
	Bhubaneswar Stock Exchange Ltd.
	Jaipur Stock Exchange Ltd.
	Saurashtra Kutch Stock Exchange Ltd.
	Vadodara Stock Exchange Ltd.
	Coimbatore Stock Exchange Ltd.
	Cochin Stock Exchange Ltd.
	The Ludhiana Stock Exchange Ltd.
	Interconnected Stock Exchange of India Ltd.
	Ahmedabad Stock Exchange Ltd.
	Bangalore Stock Exchange Ltd.
	The Calcutta Stock Exchange Association Ltd.
	The Hyderabad Stock Exchange Ltd.
	Madhya Pradesh Stock Exchange

Indonesia	Mangalore Stock Exchange Ltd. Jakarta Stock Exchange Surabaya Stock Exchange Tehran Stock Exchange Iraq Stock Exchange Tel Aviv Stock Exchange Adbijan Stock Exchange Jamaica Stock Exchange Kingston Stock Exchange Amman Stock Exchange Central-Asian Stock Exchange Kazakhstan International Stock Exchange Kazakhstan Stock Exchange Nairobi Stock Exchange Korea Exchange Kuwait Stock Exchange Kyrgyz Stock Exchange Beirut Stock Exchange Makedonska Berza Malawi Stock Exchange Bursa Malaysia Berhard Labuan International Financial Exchange Maldives Stock Exchange Mauritius Stock Exchange Mexican Stock Exchange Moldovan Stock Exchange Mongolian Stock Exchange Casablanca Stock Exchange Maputo Stock Exchange Namibian Stock Exchange Kathmandu Stock Exchange Bolsa de Valores de Nicaragua Nigerian Stock Exchange Muscat Securities Market Karachi Stock Exchange Lahore Stock Exchange Islamabad Stock Exchange Palestine Securities Exchange Panama Stock Exchange Bae Stock Exchange Bolsa de Valores y Productos de Asuncion Lima Stock Exchange Philippines Stock Exchange Makati Stock Exchange San Juan Stock Exchange Doha Securities Market RTS Stock Exchange (Level 1 or Level 2) MICEX Riyadh Stock Market
Iran	
Iraq	
Israel	
Ivory Coast	
Jamaica	
Jordan	
Kazakhstan	
Kenya	
Republic of Korea	
Kuwait	
Kyrgyz Republic	
The Lebanon	
Macedonia	
Malawi	
Malaysia	
Maldives	
Mauritius	
Mexico	
Moldova	
Mongolia	
Morocco	
Mozambique	
Namibia	
Nepal	
Nicaragua	
Nigeria	
Oman	
Pakistan	
Palestine	
Panama	
Papua New Guinea	
Paraguay	
Peru	
Philippines	
Puerto Rica	
Qatar	
Russia	
Saudi Arabia	

Saudi Arabian Stock Exchange	
Belgrade Stock Exchange	
Stock Exchange of Singapore Limited	
Johannesburg Stock Exchange	
Colombo Stock Exchange	
Khartoum Stock Exchange	
Swaziland Stock Exchange	
Taiwan Stock Exchange	
Tanzania Stock Exchange	
Stock Exchange of Thailand	
Bangkok Stock Exchange	
Bolsa de Valores de la Republica Dominicana	
Trinidad and Tobago Stock Exchange	
Tunis Stock Exchange	
Istanbul Stock Exchange	
Uganda Stock Exchange	
PFTS Stock Exchange	
Ukrainian Stock Exchange	
Kiev Stock Exchange	
Donetsky Stock Exchange	
Abu Dhabi Securities Market	
Dubai Financial Market	
Dubai International Financial Exchange	
Dubai Mercantile Exchange	
Montevideo Stock Exchange	
Republican Stock Exchange	
Caracas Stock Exchange	
Maracaibo Stock Exchange	
Electronic Stock Exchange	
Vietnam Stock Exchange	
Ho Chi Minh City Securities Trading Centre	
Hanoi Securities Trading Center	
Bourse Regionale des Valeurs Mobilieres	
Lusaka Stock Exchange	
Zimbabwe Stock Exchange	
Serbia and Montenegro	
Singapore	
South Africa	
Sri Lanka	
Sudan	
Swaziland	
Taiwan	
Tanzania	
Thailand	
The Dominican Republic	
Trinidad & Tobago	
Tunisia	
Turkey	
Uganda	
Ukraine	
United Arab Emirates	
Uruguay	
Uzbekistan	
Venezuela	
Vietnam	
West Africa	
Zambia	
Zimbabwe	

6. Any of the following markets:

(a)

Argentina	Buenos Aires Futures Market
	Mercado A Termino De Buenos Aires Matrosario
	Futures Exchange (Rofex)
Brazil	Bovespa - Sao Paulo Stock Exchange
China	Dalian Commodity Exchange
	Shanghai Futures Exchange
India	Bombay Commodity Exchange Limited
	National Multi-Commodity Exchange of India Ltd.
Republic of Korea	Korea Futures Exchange

Malaysia	Malaysia Derivatives Exchange Berhad (Mdex)
Mexico	Mexican Derivatives Exchange
Singapore	Singapore Commodity Exchange (Sicom)
	Singapore Exchange Derivatives Trading Limited
South Africa	South African Futures Exchange (SAFEX)
Taiwan	Taiwan Futures Exchange
Thailand	Agricultural Futures Exchange of Thailand
	Thailand Futures Exchange
Turkey	Turkish Derivatives Exchange
United Arab Emirates	Dubai Gold and Commodities Exchange

- (b) the Second Marche of the stock exchange set up in France in accordance with the laws of France;
- (c) the Tokyo Over-the-Counter Market regulated by the Securities Dealers Association of Japan;
- (d) the Alternative Investment Market regulated and operated by the London Stock Exchange Limited;
- (e) the over the counter market in the United States regulated by the Financial Industry Regulatory Authority, Inc.;
- (f) the market in the United Kingdom known previously as the “Grey Book Market” that is conducted through persons governed by Chapter 3 of the Financial Services Authority’s Market Conduct Sourcebook (inter-professional conduct);
- (g) the markets organised by the International Capital Market Association;
- (h) the market in US government securities conducted by primary dealers regulated by the Federal Reserve Bank of New York
- (i) NASDAQ (the electronic inter-dealer quotation system of America operated by the Financial Industry Regulatory Authority, Inc.);
- (j) <sup>1</sup>EASDAQ (the European Association of Securities Dealers Automated Quotation);
- (k) the Chicago Mercantile Exchange (CME) and the Chicago Board of Trade (CBOT);
- (l) the Singapore Exchange Limited (SGX);
- (m) the Sydney Futures Exchange (SFE);
- (n) the Hong Kong Futures Exchange (HFE);

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<sup>1</sup> EASDAQ is a recently formed market and the general level of liquidity may not compare favourably to that found on more established exchanges.



- (o) the French market for “Titres de Creance Negociable” (over-the-counter market in negotiable debt instruments);
- (p) the over-the-counter market in Canadian Government Bonds, regulated by the Investment Dealers Association of Canada;
- (q) the market conducted by “listed money market institutions” as described in the Bank of England publication “The Regulation of the Wholesale Cash and OTC Derivatives Markets (in Sterling, foreign currency and bullion);
- (r) the Czech RM-System a.s., an off-exchange market in the Czech Republic regulated by the Czech Securities Commission;
- (s) the TKD, a Czech market for T-bills organised by the Czech National Bank; and
- (t) the market for polish T-bills organised by the Polish National Bank.

PRESENT when the common seal  
of J.P. MORGAN BANK (IRELAND) PLC  
was affixed hereto:

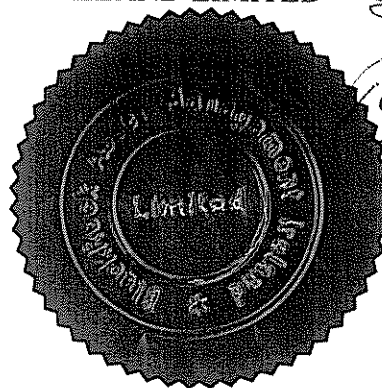


A handwritten signature in black ink, appearing to be 'Colm Kellaghan'.

Colm Kellaghan  
Authorised Signatory

Evelyn Healy

PRESENT when the common seal  
of BLACKROCK ASSET MANAGEMENT IRELAND LIMITED  
was affixed hereto:



A handwritten signature in black ink, appearing to be 'Evelyn Healy'.

WF-1935131-v5:cxv