

Dated [ ] 2017

~~Dated [ ] 2014~~

**Companies (Jersey) Law 1991**

**Company Limited by Shares**

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**ARTICLES OF ASSOCIATION**

**OF**

**MELVILLE DOUGLAS INCOME FUND LIMITED**

**(as adopted by a special resolution dated [ ] ~~2014~~2017)**

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~~Dated [ ]~~

**[DRAFT: SES/Ogier/1.11.13]**

~~Companies (Jersey) Law 1994~~

~~Company Limited by Shares~~

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~~MEMORANDUM OF ASSOCIATION~~

~~OF~~

~~MELVILLE DOUGLAS INCOME FUND LIMITED~~

~~(as adopted by a special resolution dated [ ] 2014)~~

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~~Companies (Jersey) Law 1994~~

~~Company Limited by Shares~~

~~Memorandum of Association~~

~~of~~

~~Melville Douglas Income Fund Limited~~

~~1 The name of the Company is Melville Douglas Income Fund Limited.~~

~~2 The Company is a public company limited by shares.~~

~~3 The Company is a no par value company.~~

~~4 The Company has unrestricted corporate capacity.~~

- ~~5 The liability of each member arising from his or her holding of a share is limited to the amount (if any) unpaid on it.~~
- ~~6 The Company is authorised to issue 100 Management Shares and an unlimited number of Participating Shares.~~



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**Companies (Jersey) Law 1991**

**Company Limited by Shares**

**Articles of Association**

of

**Melville Douglas Income Fund Limited**

(as adopted by a special resolution dated [ ] ~~2014~~2017)

**1 INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires, the following expressions shall have the following meanings:

**Accounting Date** means, (i) in relation to the Company, 30 September in each year or such other date as the Directors may from time to time determine; and (ii) in relation to each Class Fund, the Accounting Date for such Class Fund as determined by the Directors;

**Accounting Period** means the period commencing on the day immediately following an Accounting Date and ending on and including the next succeeding Accounting Date save that the first Accounting Period of each Class Fund shall commence on the date of establishment of the Class Fund and shall end on and include such Accounting Date as shall be determined by the Directors;

**Appendix** means the relevant appendix or schedule to the Prospectus which sets out certain provisions relating to one or more class of Participating Shares and which forms part of the Prospectus;

**Articles** means the articles of association of the Company;

**Associate** means in relation to a company, any company which is a subsidiary or a holding company of that company or a subsidiary of any such holding company and any individual, partnership or other unincorporated association or firm which has direct or indirect control of that company and any company which is directly or indirectly controlled by any such individual, partnership or other unincorporated association or firm, and in relation to an individual, partnership or other unincorporated association, means any company directly or indirectly controlled by that individual, partnership or other unincorporated association;

<b>Auditors</b>	means the auditor or auditors for the time being of the Company;
<b>Base Currency</b>	means the base currency of each Class Fund as determined by the Directors prior to the issue of any Participating Shares of the applicable class;
<b>Business Day</b>	means any day on which commercial banks are normally open for full banking business in Jersey;
<b>Class Funds</b>	means class funds established and maintained in accordance with Article 9;
<b>Company</b>	means Melville Douglas Income Fund Limited;
<b>Custodian</b>	means such corporation or corporations for the time being appointed and acting as custodian of the assets of the Company or of one or more specific Class Funds pursuant to Article 6;
<b>Custodian Agreement</b>	means any agreement for the time being subsisting to which the Company and a Custodian are parties and relating to the appointment and duties of a Custodian;
<b>Dilution Levy</b>	means, in relation to a Class Fund, any sum charged in respect of the Subscription Price or deducted in respect of the Redemption Price of a Participating Share in such amount as may be necessary to avoid any dilution of the Net Asset Value of that Class Fund that results from the use of single pricing in determining the Subscription Price and/or Redemption Price of Participating Shares. The Dilution Levy shall not exceed 1 per cent of the Subscription Price or Redemption Price (as the case may be) of a Participating Share;
<b>Directors</b>	means the directors of the Company for the time being or, as the case may be, the Directors assembled as a board or as a committee of the board;
<b>Duties and Charges</b>	means all stamp and other duties, taxes, governmental charges, brokerage, bank charges, transfer fees, registration fees and other duties and charges whether in connection with the original acquisition or increase of the assets of the Company or the creation, issue, sale, exchange, conversion, redemption or purchase of Participating Shares or the sale or purchase of Investments by the Company or in respect of certificates or otherwise which may have become or may be payable in respect of or prior to or upon the occasion of the transaction or



dealing in respect of which such duties and charges are payable but shall not include any commission charges or costs which may have been taken into account in ascertaining the Net Asset Value of the Company or Class Fund concerned;

**Electronic** has the meaning given to that term in the Electronic Communications (Jersey) Law 2000;

**Electronic Record** has the meaning given to that term in the Electronic Communications (Jersey) Law 2000;

**Electronic Signature** has the meaning given to that term in the Electronic Communications (Jersey) Law 2000;

**Fund Rules** means any Fund Rules adopted by the Directors in accordance with Article 3;

**Initial Offering Period** means the initial offering period as determined by the Directors in accordance with Article 10.1;

**Interim Accounting Date** means (i) in relation to the Company, 31 March in each year or such other date as the Directors may from time to time determine and (ii) in relation to each Class Fund, the Interim Accounting Date for such Class Fund as determined by the Directors;

**Interim Accounting Period** means, in relation to each Class Fund, the period commencing on the day immediately following the Accounting Date of such Class Fund and ending on and including the next succeeding Interim Accounting Date of such Class Fund save that the first Interim Accounting Period of each Class Fund shall commence on such date and end on and include such Interim Accounting Date, as in each case shall be determined by the Directors;

**Investment** means any share, stock, bond, debenture, debenture stock, loan, debt, loan stock, unit or sub-unit of a unit trust scheme, option, warrant, certificate of deposit, promissory note, bill, bearer depository receipt, note, security or negotiable instrument or other instrument of any kind whatsoever issued, payable or repayable by, or any money in any currency or currencies including any money deposited or held on current or deposit account with, any person, body (whether or not incorporated), partnership, fund, trust, government, government department or agency of any country, state or territory in the world and any participation in a mutual fund or similar scheme, and any other property or assets including all forms of real and

personal property and interests therein. Where any such Investment consists of the right to receive repayment of a loan or deposit, reference to purchasing or acquiring such Investment shall be taken to include the making of the loan or deposit or the taking of an assignment or otherwise acquiring the right to receive repayment thereof and references to disposing of or realising such Investment shall be taken to include receiving repayment of the loan or deposit or the making of an assignment or otherwise disposing of the right to receive repayment thereof;

<b>Investment Management Agreement</b>	means any agreement for the time being subsisting to which the Company, the Manager and the Investment Manager are parties and relating to the appointment and duties of the Investment Manager;
<b>Investment Manager</b>	means a person appointed by the Manager for the time being and acting as investment manager to the Manager in relation to the Company;
<b>Law</b>	means the Companies (Jersey) Law, 1991;
<b>Manager</b>	means the person for the time being appointed and acting as manager of the Company pursuant to Article 5;
<b>Management Agreement</b>	means any agreement for the time being subsisting to which the Company and the Manager are parties and relating to the appointment and duties of the Manager;
<b>Management Shares</b>	means the 100 Management Shares in the capital of the Company designated as such and having the rights and being subject to the restrictions specified in these Articles;
<b>Member</b>	means a person who is registered as the holder of a share or shares in the Register;
<b>Memorandum</b>	means the Memorandum of Association of the Company;
<b>Month</b>	means a calendar month;
<b>Net Asset Value</b>	with reference to the assets of the Company or any Class Fund, means Net Asset Value as determined in accordance with Articles 11.1 and 11.2;
<b>Notice</b>	means a notice in writing unless otherwise specifically stated;
<b>Office</b>	means the registered office of the Company for the time being;

<b>Ordinary Resolution</b>	means a resolution of the Company in a general meeting or of the holders of any class of shares in a class meeting in each case passed by a simple majority of the votes cast at that meeting;
<b>Paid Up</b>	shall include credited as paid up;
<b>Participating Share</b>	means a participating redeemable preference share in the capital of the Company issued and designated as a Participating Share and having the rights and being subject to the restrictions specified in these Articles and the Fund Rules;
<b>Prospectus</b>	means the most recently published prospectus issued by the Company offering for subscription or sale Participating Shares of any class in the Company and any amendments or supplements issued in respect thereto;
<b>Redemption Price</b>	means the price determined in accordance with the provisions of Article 12.4;
<b>Register</b>	means the register of Members of the Company to be kept pursuant to the provisions of the Law;
<b>Seal</b>	means the common seal of the Company which shall include any official seal adopted by the Directors pursuant to Article 39;
<b>Secretary</b>	means the secretary of the Company or other person appointed by the Directors to perform the duties of the secretary of the Company including a joint, assistant or deputy secretary;
<b>settlement</b>	means in relation to any transaction, the payment of the monies due in respect of such transaction;
<b>share</b>	means a Management Share or a Participating Share;
<b>Special Resolution</b>	means a special resolution of the Company or of a separate meeting of the holders of any class of shares, as the case may be, passed in accordance with the provisions of the Law;
<b>Subscription Day</b>	means such Business Day as may from time to time be determined as a Subscription Day by the Directors, and which, at the Director's discretion, may be a different Business Day for any or each Class Fund;
<b>Subscription Price</b>	means the price determined in accordance with the

provisions of Article 10.5;

**United Kingdom**

means Great Britain and Northern Ireland; and

**Valuation Point**

means the time determined by the Directors in respect of each class of Participating Shares as the time by reference to which the Class Fund shall be valued in accordance with Article 11.2(c).

1.2 In these Articles:

- (a) a reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may from time to time be amended, modified, extended, consolidated, re-enacted or replaced and shall include any subordinated legislation made thereunder;
- (b) references to a **subsidiary** or **holding company** shall be construed in accordance with Article 2 and Article 2A of the Law;
- (c) words denoting the singular include the plural and vice versa;
- (d) words denoting a gender include every gender;
- (e) a reference to a **person** includes, as appropriate, a company, trust, partnership, joint venture, association, body corporate or government agency;
- (f) references to persons shall include firms, corporations, partnerships, associations and other bodies of persons, whether corporate or not;
- (g) the word **may** shall be construed as permissive and the word **shall** shall be construed as imperative;
- (h) the word **currency** shall refer to the currency in which the Class Fund concerned is designated;
- (i) all references to time are to be calculated by reference to time in the place where the Company's registered office is located;
- (j) if a day on which any act, matter or thing is to be done under these Articles is not a Business Day, the act, matter or thing must be done on the next Business Day;
- (k) the word **signed** shall include a signature or a representation of a signature affixed by mechanical means;
- (l) the words **written** and **in writing** include all modes of representing or reproducing words in a visible form, but do not include an Electronic Record where the distinction between a document in writing and an Electronic Record is expressed or implied; and

(m) a reference to an Article, unless the context otherwise requires, is a reference to an Article of these Articles.

1.3 The headings in these Articles are intended for convenience only and shall not affect the construction of these Articles.

1.4 The standard table prescribed pursuant to the Law shall not apply to the Company and is hereby expressly excluded in its entirety.

## **2 PRELIMINARY EXPENSES**

The preliminary expenses incurred in forming the Company and each Class Fund in connection with its first Management Agreement and Custodian Agreement, and its initial offer of Participating Shares to the public and the costs (whether incurred directly by the Company or not) of obtaining a listing for the Participating Shares on any stock exchange, shall be amortised over such period and/or in such manner as the Directors may determine.

## **3 FUND RULES**

3.1 The Directors are authorised from time to time to adopt Fund Rules containing, inter alia, provisions relating to:

- (a) the administration and operation of the Company;
- (b) the rights and restrictions relating to any class of Participating Shares; and
- (c) the administration and operation of any one or more Class Funds including any investment and borrowing restrictions relating thereto.

Any such Fund Rules shall be set out in the Prospectus (including any Appendix thereto) and shall be read subject to these Articles and may be amended, suspended or revoked from time to time as the Directors shall determine. If and to the extent that such Fund Rules and the Prospectus permit the Company (or any other person on its behalf) to enter into any underwriting by sub-underwriting contracts, the relevant Custodian shall be notified either before or as soon as reasonably practicable after such contracts have been entered into, and any commissions and fees payable under such contracts and any Investments acquired pursuant to such contracts shall form part of the assets of the Company and shall be attributable to the relevant Class Fund as provided for in accordance with Article 9.

## **4 SITUATION OF OFFICE OF COMPANY**

4.1 The Office shall be at such address in the Island of Jersey as the Directors shall from time to time determine.

4.2 The Company, in addition to the Office, may establish and maintain such other offices and places of business and agencies as the Directors may from time to time determine.

## **5 THE MANAGER**

- 5.1 Before issuing any Participating Shares, the Directors shall appoint a Manager to act as manager of the Company and the Directors may entrust to and confer upon the Manager any of the powers, duties, discretions and/or functions exercisable by them as Directors, other than the power to make calls or forfeit shares, upon such terms and conditions including the right to remuneration payable by the Company and with such powers of delegation and such restrictions as they think fit and either collaterally with or to the exclusion of their own powers.
- 5.2 In the event that the Manager shall resign or to be dismissed or its appointment shall otherwise terminate, the Directors shall appoint a replacement Manager as soon as reasonably practicable thereafter.
- 5.3 The terms of any contract or agreement entered into by the Company appointing the replacement Manager shall be subject to approval by Ordinary Resolution of the holders for the time being of Participating Shares provided that no such approval shall be required if the terms of such contract or agreement do not differ materially from those in force with the former Manager on termination of its appointment or if the Company and the Custodians each certify that any such differences do not materially prejudice the interests of the holders for the time being of Participating Shares.
- 5.4 If the Directors are unable to find a replacement Manager which meets with the approval of the Directors within a reasonable period of the appointment of the former Manager terminating, the Directors may convene a general meeting of the Company and/or a separate meeting of the holders of any class of Participating Shares for the purposes of putting a resolution that the Company be wound up.
- 5.5 If the Members resolve by Special Resolution that the appointment of the Manager shall be terminated, the Directors shall, within seven days of the passing of such resolution, give the Manager notice of termination in accordance with the terms of the Management Agreement on such notice period provided for therein.

## **6 THE CUSTODIAN**

- 6.1 Before issuing any Participating Shares, the Directors shall appoint one or more Custodians which shall hold the assets of the Company and perform such other duties and upon such terms as the Directors may from time to time (with the agreement of the Custodian) determine.
- 6.2 So long as there are any issued and outstanding Participating Shares, a Custodian shall not be entitled to retire without the appointment of a new Custodian in its place and no Participating Shares shall be created, issued, redeemed or exchanged at any time when there shall be no Custodian.
- 6.3 A Custodian shall be entitled to require the Directors to convene a general meeting of the Company or a separate meeting of holders of any class of Participating Shares (as appropriate) to consider any matter relating to the position of the Custodian or the interests of holders of Participating Shares which the Custodian considers should be put

before holders of Participating Shares and at any such meeting the Custodian shall be entitled to speak.

## **7 SHARE CAPITAL**

- 7.1 The authorised share capital of the Company is divided into Management Shares and Participating Shares in accordance with the Memorandum, [which may be divided into one or more share classes](#).
- 7.2 Management Shares shall only be issued to such person or persons as the Directors may determine.
- 7.3 On or before the issue of any Participating Share the Directors shall determine the currency in which ~~and~~ the Class Fund [and share class](#) in relation to which such Participating Share shall be designated. [The Directors may re-designate any Participating Share as part of another Class Fund and/or another share class](#).
- 7.4 Subject as herein provided, all shares in the Company for the time being unissued shall be under the control of the Directors who may allot and dispose of the same to such persons, at such times on such terms and conditions and generally in such a manner as they think fit.
- 7.5 No warrants, options or other rights entitling the holders thereof to purchase Participating Shares shall be issued or granted by the Company.
- 7.6 Subject to Article 7.13 and to the provisions of Article 40 of the Law, the Company may issue fractions of shares and, subject to Article 7.10, any such fractional shares shall rank pari passu in all respects with the other shares of the same class issued by the Company.
- 7.7 The Directors may in their absolute discretion refuse to accept any application for shares in the Company or may accept any application in whole or in part.
- 7.8 The Company shall not pay any brokerage or commission on the issue of its shares (provided that for the avoidance of doubt this shall not prohibit the payment of a preliminary charge on the issue of Participating Shares in accordance with Article 10.11).
- 7.9 Except with the approval of an Ordinary Resolution of the holders of Participating Shares, no shares in the capital of the Company shall be issued other than as Management Shares or Participating Shares.
- 7.10 Subject to the provisions of these Articles and without prejudice to any special rights for the time being conferred on the holders of any shares or class of shares (which special rights shall not be varied or abrogated except with such consent or sanction as provided by Article 16) any share in the Company may be issued with or have attached thereto such preferred, deferred or other special rights, or such restrictions whether in regard to dividend, return of capital, voting or otherwise as the Directors may determine.
- 7.11 No person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or (except as otherwise

provided by these Articles or by law) any other right in respect of any share, except an absolute right to the entirety thereof in the registered holder.

7.12 No person may, unless the Directors in any particular case so agree, hold fewer Participating Shares than, or Participating Shares having a value of less than, such number or amount as the Directors may from time to time determine in respect of the Company or in respect of any class of Participating Shares PROVIDED THAT any such determination shall not oblige any person registered as a holder of Participating Shares prior to such determination either to dispose of his Participating Shares or to acquire additional Participating Shares.

7.13 Subject to the provisions of Article 7.12, a Member may be registered as the holder of and may transfer or have redeemed or purchased any fraction of a Participating Share provided that his holding is a multiple of a one thousandth part of a share and provided also that no such registration or transfer or redemption or purchase shall cause the total number of the Participating Shares to include any fraction of a Participating Share.

## **8 SUBSCRIPTION DAYS**

All issues, redemptions, purchases and transfers of Participating Shares shall be effected on a Subscription Day. Holders of Participating Shares of any class shall be given at least one month's prior notice in writing of any change in the Subscription Day for that class provided that no notice shall be required to be given of any additional Subscription Days determined by the Directors.

## **9 CLASS FUNDS**

9.1 The Directors shall establish a Class Fund for each class of Participating Share and shall maintain all the assets, income, earnings, liabilities, expenses and costs attributable to each Class Fund segregated and separate from all other assets, income, earnings, liabilities, expenses and costs of the Company and each other Class Fund.

9.2 The following provisions shall apply in respect of each Class Fund:

- (a) the Directors shall adopt a mechanism of single pricing in determining the Subscription Price and / or the Redemption Price for each Class Fund established for Participating Shares of that Class;
- (b) subject to the provisions of this Article 9, any consideration received on, and the proceeds from, the allotment and issue of each class of Participating Shares shall be applied in the books of the Company to the Class Fund established for Participating Shares of that class and may be applied in meeting any liabilities and expenditure attributable or allocated to such Class Fund and the assets and liabilities and income and expenditure attributable to such Class Fund shall be applied to that Class Fund and on a redemption of any Participating Share of a particular class the assets of the Class Fund established for that class of Participating Share shall be reduced by the amount payable on redemption of such share;



- (c) where any asset is derived from another asset (whether cash or otherwise), such derivative asset shall be applied in the books of the Company to the same Class Fund as the asset from which it was derived and on each revaluation of an Investment of a Class Fund the increase or diminution in value of such Investment shall be applied to the relevant Class Fund;
- (d) in the case of any assets, income, earnings, liabilities, expenses and costs of the Company (not being attributable to the Management Shares) which the Directors do not consider are attributable to a particular Class Fund or Class Funds, the Directors shall allocate such assets, income, earnings, liabilities, expenses and costs in the books of the Company between the Class Funds in such manner and on such bases as they, in their discretion, deem fair and equitable, and the Directors may vary such bases from time to time;
- (e) if, as a result of a creditor proceeding against certain of the assets of the Company or otherwise, a liability or expense would be borne in a different manner from that in which it would have been borne under paragraphs (a) to (c) above, or in any other circumstances where the Directors in their discretion deem it fair and equitable, the Directors may transfer any assets to and from any of the Class Funds; and
- (f) where the assets of the Company attributable to the Management Shares give rise to any net profits, the Directors may in their discretion, but are not obliged to, allocate assets representing such net profits to such Class Fund or Class Funds as they deem appropriate.

(g) [For the avoidance of doubt, a Class Fund may have one or more share classes.](#)

## **10 ISSUE OF PARTICIPATING SHARES**

- 10.1 The price per share at which the initial issue of Participating Shares of each class shall be made, shall be determined by the Directors. Participating Shares may be offered at such initial price for such period (the **Initial Offering Period**) as the Directors may determine (which period may for the avoidance of doubt be shortened or extended at the discretion of the Directors) provided that subscription monies received by the Company or its authorised agent during the Initial Offering Period may not be used to acquire any Investments (other than by way of being placed on current or deposit account) until expiry of the Initial Offering Period.
- 10.2 Subject to the provisions of these Articles, the Company, on receipt by it or its authorised agent by the due time and date as provided in accordance with these Articles, of a written application in such form as the Directors may from time to time determine, and such information and declarations as the Directors may from time to time require, may allot and issue Participating Shares (conditionally or unconditionally) to the applicant for cash (or such other form of consideration as may be agreed by the Directors in accordance with Article 10.9) or at the option of the Directors, procure the transfer (conditionally or unconditionally) to the applicant of fully paid Participating Shares.

- 10.3 Subject to the provisions of these Articles, the allotment and issue of Participating Shares of any class shall be made in such manner, at such times and on such terms and conditions and generally in such manner as the Directors may determine and, without prejudice to the generality of this clause, Participating Shares may be subject to different management fees.
- 10.4 The Company may (at the discretion of the Directors) satisfy any application for the allotment of Participating Shares of any class by procuring the transfer (conditionally or unconditionally) to the applicant of fully-paid Participating Shares of the relevant class, the effective date of such transfer (subject to satisfaction of any applicable conditions) to be the relevant Subscription Day (and if any compensation would have been due to the Company for interest lost due to late settlement such compensation shall instead be due to the transferor). In such cases, references in these Articles to allotting or issuing Participating Shares shall where appropriate be taken to be references to procuring the transfer of Participating Shares.
- 10.5 On any issue of a Participating Share (conditional or unconditional) after the Initial Offering Period there shall be payable by the applicant an amount per share to be known as the Subscription Price which shall be ascertained as follows:

$$SP = \frac{NAV + DC}{N} \times (1 + PC)$$

N

where:

**SP** equals the Subscription Price for each of such Participating Share;

**NAV** equals the Net Asset Value on a mid-market basis of the class of Participating Shares in accordance with these Articles on the relevant ~~Dealing~~ Subscription Day;

**PC** equals a preliminary charge for the account of the Manager calculated in accordance with the provisions of Article 10.11 hereof and expressed as a percentage;

**DC** equals such provision (if any) for Duties and Charges (if any) as may be determined by the Directors (which provision may be different for different Class Funds); and

**N** equals the number of Participating Shares of that class then in issue or deemed to be in issue.

- 10.6 A Dilution Levy may be payable in respect of the Subscription Price of a Participating Share in such amount as may be necessary to avoid any dilution of the Net Asset Value of that Class Fund.
- 10.7 The Subscription Price may be calculated to such number of decimal places as the Directors may determine.
- 10.8 On its receipt by the Company, the Subscription Price of a Participating Share shall be credited to the stated capital account of the relevant Class Fund.

- 10.9 Subject to obtaining the approval of the relevant Custodian and as provided below, the Directors may in their absolute discretion and on such terms as the Directors may determine allot Participating Shares of any class against the vesting in the Company of any Investments provided that:
- (a) for such purpose such Investments shall be valued on the same basis as if they comprised Investments of the Company; and
  - (b) the acquisition of such Investments by the Company must be consistent with the investment policy and objectives of the relevant Class Fund as set out in the Prospectus and relevant Fund Rules (if any) and must not cause any investment limitation contained in the Prospectus or relevant Fund Rules (if any) to be breached.
- 10.10 If the Manager is entitled to a preliminary charge pursuant to Article 10.11, a person to whom a Participating Share of any class shall have been issued pursuant to Article 10.9 shall be deemed to have paid an amount equal to that charge which would have been payable if the Participating Shares allotted to him had been issued for cash and such amount shall be paid by the Company to the Manager out of the relevant Class Fund.
- 10.11 Where the Manager acts as agent for the Company in connection with the issue or transfer (or, if appropriate, the conversion) of Participating Shares, the Directors may require any person to whom Participating Shares of any class are to be allotted or transferred to pay to the Manager or to the Company on behalf of the Manager for the absolute use and benefit of the Manager a preliminary charge in respect of each Participating Share to be allotted, transferred or converted of such amount as may be agreed between the Directors and the Manager but not exceeding in respect of each Participating Share to be allotted, transferred or converted an amount equal to 5.5% (five and a half per cent) of the Subscription Price of a Participating Share of the relevant class. The Directors or the Manager may on any Subscription Day differentiate between applicants as to the amount of the preliminary charge included in the Subscription Price required to be paid to the Manager, and as to the amount of preliminary charge required to be levied in relation to each class of Participating Share (subject to the maximum aforesaid). The Manager may rebate all or any part of the preliminary charge to financial intermediaries.
- 10.12 After the first issue of Participating Shares of any class pursuant to these Articles, the Company may from time to time make a public offer of Participating Shares of any class at a fixed price per share equal to the Subscription Price of shares of the class concerned as at the Subscription Day on or immediately preceding the date of such public offer and for a period not exceeding thirty days from the date of such public offer (inclusive of such date) shares of the class concerned may be issued for that Subscription Price whether pursuant to the public offer or not PROVIDED THAT such offer shall close if the Net Asset Value of the relevant class of Participating Shares since the calculation of the Subscription Price by reference to which the fixed price was established fluctuates by more than two and one half per cent.

- 10.13 Participating Shares shall not be offered under such a public offer by the Manager acting as principal or to the Manager or the Investment Manager or any Associate of either of them.
- 10.14 No Participating Shares of any class shall be issued during any period when the determination of the Net Asset Value of that class of Participating Shares is suspended pursuant to these Articles PROVIDED THAT the issue of shares for which applications have been received and accepted by the Company or its authorised agent before the commencement of that period shall not be prohibited by virtue of this Article.
- 10.15 Except as otherwise agreed by the Directors, any Participating Shares applied for shall be allotted (conditionally or unconditionally) on a Subscription Day. The Directors may at their discretion determine the time at which an application must be received to qualify for subscription on a particular Subscription Day. The Directors may at their discretion select different times for different Class Funds. If the application or any information or declarations required by the Directors is received after the time specified for that particular Class Fund the Directors may defer the allotment of shares until the next succeeding Subscription Day, or until the next subsequent Subscription Day on which the conditions for allotment of shares have been satisfied.
- 10.16 Payment for Participating Shares shall be made in such currency or, in the case of applications in accordance with Article 10.9, in Investments, at such time and place and to such person on behalf of the Company as the Directors may from time to time determine. The Directors shall, if necessary, convert currencies to other currencies or revalue currencies in terms of other currencies. The cost of conversion (if any) shall be deducted from the converted payment.
- 10.17 For the purpose of calculating the number of Participating Shares in issue and deemed to be in issue such shares:
- (a) for which application has been made shall be deemed to be in issue at the commencement of business on the Business Day next following the day on which they are allotted (whether conditionally or unconditionally);
  - (b) to be redeemed shall be deemed to remain in issue until the close of business on the day on which they are actually redeemed.
- 10.18 The Directors shall have power to impose such restrictions as they may think necessary for the purpose of ensuring that no shares in the Company are acquired or held by any person in breach of the law or requirements of any country or governmental authority.
- 10.19 Without prejudice to the provisions of Article 10.18 the Directors are permitted to discontinue temporarily, cease altogether or limit the issue of shares at any time to persons by reason of their residence, domicile or establishment in certain countries or territories. Further, the Directors may exclude persons from the acquisition of shares by subscription or purchase from the Manager, if such action is necessary for the protection of the Company and the Members as a whole or for any other reason. In this connection, the Directors or the Manager may:
- (a) reject in their or its discretion any subscription for Participating Shares; and

- (b) pursuant to Article 13 redeem or purchase at any time Participating Shares held by Members who are so excluded from purchasing or holding shares.

10.20 None of the Company, the Manager or the Custodians may knowingly take any action that would permit or result in an offering of Participating Shares in any country or any jurisdiction, except in conformity with the laws and regulations relating to the offering of securities in that jurisdiction.

## 11 VALUATION

11.1 The Net Asset Value of each class of Participating Shares shall be determined separately by the Directors at each Subscription Day and on such other occasions as the Directors may determine by reference to the relevant Valuation Point and shall be the value of all the assets, less all the liabilities of the Company of or attributed to the relevant Class Fund calculated on the basis of this Article.

11.2 For the purposes of calculating the Net Asset Value the following provisions shall apply:

- (a) The assets of the Company shall include:
  - (i) all cash on hand or on deposit or on call, including any interest accrued thereon;
  - (ii) all certificates of deposit, treasury bills, trade bills, bank acceptances, bills of exchange, bills, demand notes, promissory notes and accounts receivable;
  - (iii) all bonds, time notes, shares, stock, debentures, debenture stock, subscription rights, warrants, securities of whatever description and any form of interest in any of the foregoing and other Investments owned or contracted for by the Company, other than rights and securities issued by it;
  - (iv) all stock and cash dividends and cash distributions to be received by the Company and not yet received by it but declared to holders of record on a date on or before the day as of which the value is being determined;
  - (v) all interest accrued on any interest-bearing securities owned by the Company except to the extent that the same is included or reflected in the principal value of such security;
  - (vi) cash payments outstanding on any Participating Shares allotted;
  - (vii) all other Investments of the Company; and
  - (viii) all other property and assets of the Company of every kind and nature including prepaid expenses as valued and defined from time to time by the Directors.
- (b) The liabilities of the Company shall be deemed to include:

- (i) all bills, notes and accounts payable;
  - (ii) all management and administrative expenses payable and/or accrued (the latter on a day-to-day basis);
  - (iii) the aggregate amount of all borrowings and interest, commitment fees and other charges in connection therewith;
  - (iv) all known liabilities present and future including the amount of any unpaid dividend declared upon the shares in the Company, contractual obligations for the acquisition of Investments or for the payment of money and outstanding payments on any Participating Shares previously redeemed;
  - (v) an appropriate provision for taxes as determined from time to time by the Directors; and
  - (vi) all other liabilities of the Company of whatsoever kind and nature except liabilities represented by shares in the Company and reserves (other than reserves authorised or approved by the Directors for Duties and Charges or contingencies). In determining the amount of such liabilities the Directors may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period.
- (c) The calculation of Net Asset Value shall be based upon the prices and values ruling at such time as the Directors may determine which shall be known as the **Valuation Point**.
- (d) The value of any cash on hand or on deposit, 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 Directors are 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 Directors may consider appropriate in such case to reflect the true value thereof.
- (e) The value of any units in any unit trust or of any shares in a company the quoted price of the units or shares of which are directly related to the underlying value of its net assets shall be the mid price notified to the Manager or the Company by the manager thereof.
- (f) The value of any demand notes, promissory notes and accounts receivable shall be deemed to be the face value or full amount thereof after making such discount as the Directors may consider appropriate to reflect the true current value thereof.
- (g) Deposits shall be valued at their principal amount plus accrued interest from the date of acquisition.
- (h) Certificates of deposit, treasury bills, bank acceptances, trade bills and similar instruments shall each be valued either:

- (i) on the basis of a notification to the Directors by a person approved by the Directors for the purposes of this paragraph whose business includes dealing in or effecting transactions in the relevant instrument according to the normal dealing practice therein; or
  - (ii) on the basis of a straight line yield to maturity at the date of acquisition of the particular instrument.
- (i) Where any Investment (not being an Investment of the type described in paragraph (e) of this Article 11.2) owned or contracted for by the Company is listed or dealt in on a stock exchange recognised as such under the securities laws of the jurisdiction in which it is situated the value of such Investment shall be based on the price which shall be notified to the Company by a member of the stock exchange concerned as being the mid-market price therefor as at the official close of such stock exchange immediately prior to the Valuation Point and where any Investment (not being an Investment of the type described in paragraph (e) of this Article 11.2) owned or contracted for by the Company is dealt in on any over-the-counter market, the value of such Investment shall be based on the mid-market price which shall be notified to the Company by a person approved by the Directors for the purposes of this paragraph whose business includes dealing in or effecting transactions in the Investment concerned as being the price therefor as at the official close of such over-the-counter market immediately prior to the Valuation Point. Where such Investment is listed or dealt in on more than one stock exchange or over-the-counter market the Directors may in their absolute discretion select any one of such stock exchanges or over-the-counter markets for the foregoing purpose.
- (j) Where agreements are in existence for the unconditional sale or purchase of Investments by the Company but such sale or purchase has not been completed such Investments shall be excluded or included and the net sale or gross purchase consideration excluded or included (as the case may require) as if such sale or purchase had been duly completed PROVIDED THAT if the net amount receivable is not payable until some future time the Directors shall make such allowance (if any) as they consider appropriate to reflect the true current value thereof.
- (k) If and whenever the quoted price of an Investment is a single price, the dealing commission (if any) payable shall be taken into account to arrive at the market dealing price.
- (l) Where for the purposes of these Articles any amount in one currency is required to be translated into another currency the Directors may effect such translation using such rate of exchange as in their absolute discretion they think appropriate except where these Articles otherwise specifically provide.
- (m) The payments due for Participating Shares in the Company to be redeemed shall from the close of business on the day on which they are actually redeemed until such payment is made be deemed to be a liability of the Company.



- (n) If in any case a particular value is not ascertainable as above provided or if the Directors shall consider that some other method of valuation better reflects the fair value of the relevant Investment then in any such case the method of valuation shall be such as the Directors shall decide subject to the approval of either the relevant Custodian or the Auditors.
- (o) Any determination of the Net Asset Value of a class of Participating Shares for the purposes of this Article shall be expressed in the currency in which the relevant class of Participating Shares is designated.

## 12 PURCHASE AND REDEMPTION OF PARTICIPATING SHARES

12.1 Subject to the provisions of the Law and Articles 7.12 and 15.1 and subject as hereinafter provided, the Company shall on receipt by it or its authorised agent of a request in such form as the Directors shall from time to time determine from a holder of a Participating Share of any class (the **Applicant**) together with the original purchase confirmation in respect of the Participating Shares to be redeemed or such other evidence of title as the Company may require, redeem all or any portion of the Participating Shares registered in the name of the Applicant at the Redemption Price for Participating Shares of the class concerned or procure the purchase thereof at no less than such Redemption Price and at the same time and under the same conditions as apply to redemption under the provisions of these Articles PROVIDED THAT:

- (a) On any such redemption the Directors shall have the power, with the sanction of a Special Resolution, or with the approval of the relevant Custodian and the agreement of the Applicant, to divide in specie the whole or any part of the assets of the Company comprised in the Class Fund established for Participating Shares of that class and appropriate such assets in the satisfaction or part satisfaction of the redemption proceeds.
- (b) The Directors may at their discretion determine the time at which redemption requests must be received to qualify for redemption on a particular Subscription Day. The Directors may at their discretion select different times for different Class Funds. If the redemption request is received after the time specified for that particular Class Fund the Directors may defer the redemption or purchase of such shares until the next succeeding Subscription Day.
- (c) The Applicant shall lodge with the Manager or its authorised agent the original purchase confirmation in respect of the Participating Shares to be redeemed or such other evidence of title as the Company may require and no payment shall be made until such original purchase confirmation or other evidence of title shall have been received;
- (d) Subject as hereinafter provided in this Article, the Applicant shall not be entitled to withdraw a request duly made in accordance with this Article.
- (e) If the determination of the Redemption Price is suspended by reason of a declaration pursuant to Article 15.1 beyond the day on which it would normally occur the right of the Applicant to have his Participating Shares redeemed or



purchased pursuant to this Article shall be similarly suspended and during the period of suspension he may withdraw his request for redemption. Any withdrawal of a request for redemption under the provisions of this Article shall be made in writing and shall only be effective if actually received by the Company or its duly authorised agent before termination of the period of suspension. No withdrawal of a request for redemption shall be permitted where the Directors have authorised a part payment or payment on account to be made. If the request is not so withdrawn the redemption or purchase of the Participating Shares shall be made on the Subscription Day next following the end of the suspension or on such earlier day following the end of the suspension as the Directors may agree.

- (f) The Company shall not be bound to redeem on any single Subscription Day more than one eighth of the Participating Shares in issue or deemed to be in issue or more than one eighth of the Participating Shares of any class in issue or deemed to be in issue.
- (g) The Directors may specify a minimum number or value of Participating Shares which may be the subject of a redemption request pursuant to this Article 12.1 in which event the Directors shall not be bound to give effect to a redemption request in respect of a number of Participating Shares below such minimum. The Directors may also specify a minimum number or value of Participating Shares which may be held by a shareholder following a redemption and the Directors shall not be bound to give effect to a redemption request which could result in the number or value (as appropriate) of a shareholder's remaining holding of Participating Shares falling below such minimum.
- (h) Within seven Business Days after the Subscription Day on which any Participating Shares are redeemed or purchased, or such other period as may be disclosed in the relevant Appendix to the Prospectus, there shall be sent to the redeeming shareholder a contract note expressed in the currency in which the Participating Shares to be redeemed are designated in respect of the proceeds payable on the redemption or purchase of the said shares and payment of the redemption or purchase proceeds shall be made in such manner as the Directors may determine in the currency in which such Participating Shares are designated or such other currency as the Directors may at the request and cost of the Applicant agree. Any amount payable as aforesaid to the Applicant shall be electronically transmitted to a bank at the Member's request and expense by or on behalf of the Company to the Applicant not later than seven Business Days after the later of the Subscription Day on which the Participating Shares are redeemed or purchased and the day on which the original purchase confirmation or other evidence of title in respect of the Participating Shares to be redeemed or purchased is received by the Company, or within such other period as the Directors may determine shall be applicable for the payment of redemption proceeds in respect of one or more Class Funds which period shall be disclosed in the relevant Appendix to the Prospectus for the Class Fund(s) in question, PROVIDED THAT where payment is delayed by reason that the original purchase confirmation or other evidence of title in respect of the Participating Shares being redeemed or purchased has not been received the amount payable may (after notice given to the Applicant by the Company) be invested or otherwise made use of on behalf of the Company for its

benefit until such original purchase confirmation or other evidence of title in respect of the Participating Shares is received by the Company.

- 12.2 A Participating Share shall be redeemed out of the stated capital account of the relevant Class Fund or, at the discretion of the Directors, out of the other sources permitted by the Law. The premium, if any, payable on redemption of a Participating Share shall be provided for out of the share premium account or, at the discretion of the Directors, wholly or partly, out of the other sources permitted by the Law.
- 12.3 Upon the redemption or purchase of a Participating Share being effected pursuant to these Articles, the Applicant shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a dividend which has been declared in respect thereof prior to such redemption or purchase being effected) and accordingly his name shall be removed from the Register with respect thereto and if redeemed the share shall be available as a Participating Share for re-issue and until re-issue shall form part of the unissued share capital of the Company.
- 12.4 The Redemption Price of a Participating Share of any class shall be calculated at the Valuation Point for the relevant Subscription Day by:
- (a) ascertaining the Net Asset Value on a mid-market basis of the class of Participating Shares in accordance with these Articles;
  - (b) deducting therefrom such provision (if any) for Duties and Charges as may be determined by the Directors (which provision may be different for different Class Funds); and
  - (c) dividing the sum resulting from (a) and (b) above by the number of Participating Shares of that class then in issue or deemed to be in issue.

A Dilution Levy may also be deducted in respect of the Redemption Price of a Participating Share in such amount as may be necessary to avoid any dilution of the Net Asset Value of that Class Fund. The Redemption Price may be calculated to such number of decimal places as the Directors may determine.

- 12.5 All Participating Shares not previously redeemed shall be redeemed by the Company on the last Subscription Day in 2099 at their respective Redemption Prices on such Subscription Day.

### **13 COMPULSORY REDEMPTION**

- 13.1 If it shall come to the notice of the Company or the Manager that any Participating Shares are owned directly or beneficially either by:
- (a) any person in breach of any law or regulation of any country or governmental authority by virtue of which such person is not qualified to hold such shares; or
  - (b) any person who shall belong to or be comprised within any class of persons stipulated from time to time for the purposes of this Article by the Company as being ineligible to own Participating Shares; or

- (c) any person so as to cause the Company to be in breach of any law or regulation of any country or governmental authority or so as to constitute fiscal tax or other pecuniary disadvantage to the Company,

then the Company or its duly authorised agent may give notice to such person requiring him to transfer such shares to a person who is qualified and entitled to own the same or to give a request in writing for the redemption of such shares in accordance with Article 12.1. If any person upon whom such a notice is served pursuant to this Article does not within thirty days after receipt of such notice transfer his shares to a person qualified and entitled to own the same or establish to the satisfaction of the Manager (whose judgement shall be final and binding) that he is qualified and entitled to own the shares, he shall be deemed upon the expiration of thirty days to have given a request in writing pursuant to Article 12.1 for the redemption of all his shares.

- 13.2 A person who becomes aware that he is holding or owning Participating Shares in breach of any law of any country or governmental authority by virtue of which he is not qualified to hold such shares or that he is a person who belongs to or is comprised within any class of persons stipulated from time to time for the purposes of this Article by the Company shall forthwith, unless he has already received a notice pursuant to Article 13.1, either transfer all his shares to a person qualified or permitted to own the same or give a request in writing pursuant to Article 12.1 for the redemption of all his shares.
- 13.3 Payment of the Redemption Price under Articles 13.1 or 13.2 will be made to such person on the Subscription Day next following the receipt or deemed receipt of the redemption request referred to in Articles 13.1 or 13.2 in the currency of designation of the Participating Shares to which the redemption request or deemed redemption request relates and will be deposited by the Company in a bank in the name of the Manager (or as it shall direct) for payment against delivery to the Manager of the original purchase confirmation or such other evidence of title as the Company may require. Upon the payment of such Redemption Price as aforesaid, such person shall have no further interest in such Participating Shares or any of them or any claim against the Company in respect thereof except the right to receive the Redemption Price so deposited (without interest) upon delivery of the said original purchase confirmation or other evidence of title.
- 13.4 The exercise by the Company or the Manager of the power conferred by Article 13.1 shall not be questioned or invalidated in any case on the ground that there was insufficient evidence of ownership of Participating Shares by any person or that the true ownership of any Participating Shares was otherwise than appeared to the Company or the Manager at the relevant date provided that the said powers shall have been exercised in good faith.
- 13.5 The Company or the Manager may at any time and from time to time call upon any holder of Participating Shares by notice in writing to provide the Directors with such information and evidence as they shall require to ascertain whether or not the Participating Shares are owned directly or beneficially by a person falling within any of the descriptions contained in Article 13.1.
- 13.6 If at any time after the first anniversary of the date of the Company's incorporation by way of continuation, the aggregate Net Asset Value of the Company shall at the Valuation Point for each Subscription Day falling within a period of four consecutive weeks be less

than such amount as may be specified for such purposes by the Directors, the Company may by not less than three weeks' notice (expiring on a Subscription Day) to all holders of Participating Shares, given within eight weeks after the expiry of the said four week period, redeem on the Subscription Day on which such notice expires, all (but not only some) of the Participating Shares then in issue at their respective Redemption Prices on such Subscription Day.

- 13.7 If at any time after the first anniversary of the date of the first issue of any Participating Shares of any class, the Net Asset Value of that class of Participating Shares shall at the Valuation Point for each Subscription Day falling within a period of four consecutive weeks be less than such amount as may be specified for such purposes by the Directors, the Company may by not less than three weeks' notice (expiring on a Subscription Day) to all holders of Participating Shares of the relevant class, given within eight weeks after the expiry of the said four week period, redeem on the Subscription Day on which such notice expires all (but not only some) of the Participating Shares of that class then in issue at the Redemption Price on such Subscription Day.

## 14 CLASS FUND CONVERSIONS

- 14.1 Subject as hereinafter provided and to any restrictions imposed pursuant to Articles 7.12, 11.1 and 15.2, a holder of Participating Shares of any class in a Class Fund (the **First Class**) shall have the right on any Subscription Day for the First Class to convert all or any of such Participating Shares into Participating Shares of any class in another **class Class Fund** (the **Second Class**) either existing or agreed by the Directors to be brought into existence, subject to and on the following terms:

- (a) If the Subscription Days for the First Class and the Second Class do not fall on the same day, the Directors may either:
- (i) determine that holders of Participating Shares of the First Class shall not have the right to convert such Participating Shares into Participating Shares of the Second Class; or
  - (ii) determine that a valuation of the Net Asset Value of the Second Class shall be carried out on the Subscription Day for the First Class for the purposes of enabling conversions to take place.
- (b) The right of conversion shall be exercisable by the said holder (hereinafter called the **Applicant**) giving to the Company or its authorised agent a notice (hereinafter called a **Conversion Notice**) in such form as the Directors may from time to time determine.
- (c) The conversion of the Participating Shares comprised in the Conversion Notice pursuant to this Article shall be effected upon the Subscription Day for the First Class upon which, or following the day upon which, the Conversion Notice is received provided that if the Conversion Notice is received after the time fixed by the Directors for receipt of Conversion Notices on a Subscription Day the conversion shall be effected on the Subscription Day for the First Class next following receipt of such Conversion Notice and provided further that no

conversion shall be made under the provisions of this Article until the original purchase confirmation or such other evidence of title as the Company may require in respect of the Participating Shares to be converted is received by the Company.

- (d) The Applicant shall not without the consent of the Company be entitled to withdraw a Conversion Notice except in any circumstances in which if it were a notice to redeem given pursuant to Article 12.1 he would be entitled to withdraw it in accordance with Article 12.1(d).
- (e) The Directors may specify a minimum number or value of Participating Shares which may be held by a shareholder following a conversion and the Directors shall not be bound to give effect to a conversion request which could result in the number or value (as appropriate) of a shareholder's remaining holding of Participating Shares falling below such a minimum.
- (f) Conversion of the Participating Shares of the First Class comprised in the Conversion Notice shall be effected in such manner permitted by the Law as the Directors shall from time to time determine. The right of conversion under this Article shall be conditional upon the Company having sufficient available share capital to enable the conversion to be implemented in the manner determined by the Directors as aforesaid and upon it being reasonably practicable for the Company to dispose of or acquire (as appropriate) the relevant currencies (if applicable).
- (g) The number of Participating Shares of the Second Class to be allotted or to be otherwise created on conversion shall be determined by the Directors in accordance (or as nearly as may be in accordance) with the following formula:

$$N = \frac{F \times P \times C}{S}$$

S

where:

- N** is the number of Participating Shares of the Second Class to be allotted;
- F** is the number of Participating Shares of the First Class to be converted;
- P** is the Redemption Price per Participating Share of the First Class ruling on the relevant Subscription Day;
- C** is the current exchange rate (where applicable) determined by the Directors on the relevant Subscription Day as representing the effective rate of exchange applicable to the transfer of relevant assets between the relative Class Funds, after adjusting such rate as may be necessary to reflect the effective costs of making such transfer;
- S** is the Subscription Price per Participating Share for the Second Class ruling on the relevant Subscription Day (but excluding any preliminary charge on the first conversion by such holder in any Accounting Period,

except where the preliminary charge on the issue of shares of the First Class is less than that applicable on the issue of shares of the Second Class, in which case a preliminary charge equivalent to the difference will be levied),

and the number of Participating Shares of the Second Class to be created or allotted pursuant to this Article shall be so allotted or created in respect of each of the Participating Shares of the First Class being converted in the proportion (or as nearly as may be in the proportion) N to F where N and F have the meanings ascribed to them above; provided always that the Directors may in their absolute discretion make such adjustments to the above conversion formula as they may consider appropriate to take account of any difference between the preliminary charge payable to the Manager in respect of the issue of Participating Shares of the First Class and the issue of Participating Shares of the Second Class. For the avoidance of doubt, a Dilution Levy may also be payable in respect of the Subscription Price or deducted in respect of the Redemption Price of a Participating Share in such amount as may be necessary to avoid any dilution of the Net Asset Value of the relevant Class Fund.

- (h) If the Shares of the First Class are designated in a currency other than that in which the Shares of the Second Class are designated on the relevant Subscription Day the Company will arrange for the sale of an amount equal to  $F \times P$  (or such other amount of the currency in which the Participating Shares of the First Class are designated as the Directors consider to be appropriate in the circumstances) for the currency in which the Participating Shares of the Second Class are designated (the **Second Currency**). The Manager shall debit the Class Fund relating to the Participating Shares of the First Class with an amount equal to  $F \times P$  and shall credit the Class Fund relating to the Participating Shares of the Second Class with the appropriate amount in the Second Currency. Subject to the discretion of the Directors, the Manager may be paid out of the Class Fund relating to the Participating Shares of the Second Class an amount not greater than the preliminary charge to which it is entitled and which has been taken into account in calculating S.

## 15 SUSPENSION OF DEALINGS

- 15.1 The Directors may declare a suspension of the valuation of the Net Asset Value of a class of Participating Shares and of the issue, sale, purchase, redemption and conversion of shares of that class for the whole or any part of a period during which:
- (a) a breakdown occurs in any of the means normally employed by the Directors in ascertaining the value of Investments comprised in the Class Fund established for that class of Participating Shares; or
  - (b) for any other reason the value of a substantial part (in the opinion of the Directors) of the Investments comprised in the Class Fund established for that class of Participating Shares cannot reasonably be ascertained; or



- (c) circumstances exist as a result of which, in the opinion of the Directors, it is not reasonably practical for the Company to realise or to dispose of Investments comprised in the Class Fund established for that class of Participating Shares or fairly to determine the Net Asset Value of the relevant class of Participating Shares; or
- (d) the remittance of funds which will or may be involved in the realisation of, or in the payment for, Investments or the issue, sale, purchase or redemption of Participating Shares cannot in the opinion of the Directors be carried out without undue delay and at normal rates of exchange; or
- (e) in the opinion of the Directors certified in writing such a suspension is desirable in the interests of the Members.

15.2 Any such suspension of the valuation of the Net Asset Value of a class of Participating Shares and of the issue, sale, purchase, redemption and conversion of shares of that class shall take effect at such time as the Directors shall declare but not later than the close of business on the Business Day next following the declaration and thereafter there shall be no determination of the Net Asset Value of the particular class of Participating Shares and no issue, sale, purchase, redemption and conversion of shares of that class until the Directors shall declare the suspension at an end except that suspension shall terminate in any event on the first Business Day on which either:

- (a) the condition giving rise to the suspension shall have ceased to exist and no other condition under which suspension is authorised under Article ~~14.1~~15.1 shall exist; or
- (b) six months shall have elapsed from the date of the suspension unless prior to the expiry of such period the Directors shall have declared a further suspension in which case such suspension shall continue until terminated as hereinbefore provided (excluding this paragraph (b)) and in any event shall terminate on the first Business Day after a further six months shall have elapsed from expiry of such period.

15.3 Whenever the Directors shall declare a suspension of the determination of the Net Asset Value of any particular class of Participating Shares and of the issue, sale, purchase, redemption and conversion of shares of that class under the provisions of these Articles, then as soon as may be practicable after any such declaration and monthly thereafter until the end of period of suspension, the Directors shall cause a notice to be placed in such publication as the Directors deem appropriate stating that such declaration has been made, and at the end of any period of suspension the Directors shall cause another notice to be placed in such publication stating that the period of suspension has ended.

## **16 MODIFICATION OF RIGHTS**

16.1 Whenever the capital of the Company is divided into different classes of share the special rights attached to any class may (unless otherwise provided by the terms of issue of the shares of that class) be varied or abrogated either while the Company is a going concern or during or in contemplation of a winding up:

- (a) with the consent in writing of a majority of the holders of the issued shares of the class; or
- (b) with the sanction of an Ordinary Resolution passed at a separate meeting of the holders of the shares of the class.

To every such separate meeting all the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, mutatis mutandis, apply except that the necessary quorum shall be two or more persons holding or representing by proxy one-third in number of the issued shares of the class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present, those Members who are present shall be a quorum).

AND PROVIDED ALWAYS THAT the Directors may treat all the classes of Participating Shares as forming one class if they consider that all such classes would be affected in the same way by the proposals under consideration and that there would be no conflict between them but in any other case shall treat them as separate classes.

- 16.2 The rights attached to the Participating Shares shall be deemed to be varied by the creation or issue of any shares (other than Participating Shares of any class) ranking pari passu with or in priority to them as respects participation in the profits of the Company or in a winding up or reduction of capital.
- 16.3 Subject to Article 16.2, the special rights conferred upon the holders of any shares or class of shares issued with preferred, deferred or other special rights shall not, unless otherwise expressly provided by the terms of issue of such shares, be deemed to be varied by:
- (a) the creation, allotment or issue of further shares of any class ranking pari passu therewith; or
  - (b) the creation, allotment or issue of Management Shares; or
  - (c) the creation, allotment, issue, redemption or purchase of Participating Shares of any class; or
  - (d) the conversion of Participating Shares of any class into Participating Shares of another class pursuant to Article 14;
  - (e) the exercise by the Directors of their discretion under Article 11.2 or, if the Company shall be wound up, by the exercise by a Liquidator of his powers under Articles 49.1 and 49.3.

## **17 CERTIFICATES**

- 17.1 The Company shall not issue certificates in respect of Participating Shares and shall only issue a certificate to a Member holding Management Shares on the written request of such a Member.



- 17.2 Every Member holding Management Shares, shall upon becoming the holder of such shares shall be entitled, without payment, to one certificate for all the shares held by him (and upon transferring a part of his holding of shares of any class to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment, for every certificate after the first, of such reasonable sum as the Directors may determine. Every certificate shall be sealed with the Seal and shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up thereon. The Directors may from time to time determine that any signatures to be affixed to any such certificates need not be manual but may be printed or reproduced in any other manner notwithstanding any other provisions of these Articles with respect to the affixing of the Seal PROVIDED THAT if at any time all the issued shares in the Company (or all the issued shares therein of a particular class) are fully paid up and rank pari passu for all purposes none of those shares need thereafter have a distinguishing number so long as they remain fully paid up and rank pari passu for all purposes with all shares of the same class for the time being issued and fully paid up.
- 17.3 If a share certificate is defaced, worn out, lost or destroyed it may be renewed on the request of a Member holding Management Shares on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence, as the Directors may determine, and (in the case of defacement or wearing out) on delivery up of the old certificate.
- 17.4 The Company shall not be bound to register more than four persons as the joint holders of any shares. Where two or more persons are registered as the holders of any share they shall be deemed to hold that share as joint tenants, subject to Article 26.3 and to the following provisions:
- (a) the joint holders of any shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such share;
  - (b) any one of such joint holders may give an effectual receipt for any dividend, bonus, return of capital or other payment payable to such joint holders; and
  - (c) only the first-named of the joint holders of a share shall be entitled to delivery of the certificate relating to such share (in the case of Management Shares) or to receive notices from the Company to attend general meetings of the Company and any notice given to the first-named of joint holders shall be deemed to be notice given to all the joint holders.

## **18 LIEN**

- 18.1 The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien on a share shall extend to any amount payable in respect of it.
- 18.2 The Company may sell in such manner as the Directors determine any shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable

and is not paid within 14 days after notice has been given to the holder of the share or to the person entitled to it in consequence of the death or bankruptcy of the holder demanding payment and stating that if the notice is not complied with the shares may be sold.

- 18.3 To give effect to a sale the Directors may authorise some person to execute an instrument of transfer of the shares sold to or in accordance with the directions of the purchaser. The title of the transferee to the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 18.4 The net proceeds of the sale after payment of the costs shall be applied in payment of so much of the sum for which the lien exists as is presently payable and any residue shall (upon surrender to the Company, for cancellation, of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **19 CALLS ON SHARES AND FORFEITURE**

- 19.1 Subject to the terms of allotment the Directors may make calls upon the Members in respect of any moneys unpaid on their shares and each Member shall (subject to receiving at least 14 days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may before receipt by the Company of any sum due thereunder be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.
- 19.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
- 19.3 The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 19.4 If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or at such rate not exceeding ten per cent per annum as the Directors may determine but the Directors may waive payment of the interest wholly or in part.
- 19.5 An amount payable in respect of a share on allotment or at any fixed date, whether in respect of any amount unpaid on such share or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of these Articles shall apply as if that amount had become due and payable by virtue of a call. The Company may accept from a Member the whole or a part of the amount remaining unpaid on shares held by him although no part of that amount has been called up.
- 19.6 Subject to the terms of allotment, the Directors may make arrangements on the issue of shares for a difference between the holders in the amounts and times of payment of calls on their shares.

- 19.7 If a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than 14 days ~~'~~ notice requiring payment of the amount unpaid together with any interest which may have accrued. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
- 19.8 If the notice is not complied with any share in respect of which it was given may before the payment required by the notice has been made be forfeited by a resolution of the Directors and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
- 19.9 A forfeited share may be sold re-allotted or otherwise disposed of on such terms and in such manner as the Directors determine either to the person who was before the forfeiture the holder or to any other person and at any time before sale re-allotment or other disposition, the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person the Directors may authorise some person to execute an instrument of transfer of the share to that person.
- 19.10 A person any of whose shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate (if any) for the shares forfeited but shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those shares with interest at the rate at which interest was payable on those moneys before the forfeiture or at such rate not exceeding ten per cent per annum as the Directors may determine from the date of forfeiture until payment but the Directors may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- 19.11 A declaration under oath by a Director or the Secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the share.

## **20 TRANSFER OF SHARES**

- 20.1 The instrument of transfer of a share may be in any usual form or in any other form which the Directors may approve and shall be executed by or on behalf of the transferor. No transfer of Management Shares may be effected without the prior written consent of the Directors.
- 20.2 The Directors may in their absolute discretion and without assigning any reason decline to register any transfer of shares (not being fully paid shares).
- 20.3 The Directors may also refuse to register any transfer:

- (a) to a person falling within the description contained in Article 13.1(a); and
  - (b) of a share on which the Company has a lien.
- 20.4 The Directors may also refuse to register a transfer unless the instrument of transfer is:
- (a) lodged at the Office or at such other place as the Directors may appoint and is accompanied by the original purchase confirmation for the shares to be transferred or such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) in respect of only one class of shares; and
  - (c) in favour of not more than four transferees.
- 20.5 If the Directors refuse to register a transfer of a share they shall, within two months after the date on which the instrument of transfer was lodged with the Company, send to the transferor and the transferee notice of the refusal.
- 20.6 The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding 30 days in any year) as the Directors may determine.
- 20.7 The Company shall be entitled to retain any instrument of transfer which is registered but any instrument of transfer which the Directors refuse to register shall (except in the case of fraud) be returned to the person lodging it when notice of the refusal is given.
- 20.8 The transferor of a share shall be deemed to remain the holder of such share until the share has been registered in the name of the transferee in the Register.
- 20.9 There shall be paid to the Company in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title to any shares, such fee as the Directors may from time to time require or prescribe.

## **21 TRANSMISSION OF SHARES**

- 21.1 If a Member dies, the survivors or survivor where he was a joint holder, and the executors or administrators of the deceased where he was a sole or only surviving holder, shall be the only persons recognised by the Company as having title to his interest in the shares, but nothing in this Article shall release the estate of the deceased holder whether sole or joint from any liability in respect of any shares solely or jointly held by him.
- 21.2 Any person becoming entitled to a share in consequence of the death, bankruptcy or incapacity of a Member shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the share or to make such transfer thereof in accordance with the provisions of these Articles as the deceased, bankrupt or incapacitated Member could have made. If he elects to become the holder he shall give notice to the Company to that effect. If he elects to transfer the share he shall execute an instrument of transfer of the share to the transferee. All of the

limitations, restrictions and provisions of these Articles relating to the transfer of shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the Member and the death, bankruptcy or incapacity of the Member had not occurred.

- 21.3 A person so becoming entitled to a share in consequence of the death, bankruptcy or incapacity of a Member shall have the rights to which he would be entitled if he were the holder of the share, except that he shall not before being registered as the holder of the share be entitled to receive notice of or to attend or vote at a general meeting of the Company or at any separate meeting of the holders of any class of shares in the Company PROVIDED ALWAYS that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with within ninety days the Directors may thereafter withhold all dividends or other monies payable or other rights due in respect of the share until the requirements of the notice have been complied with.

## **22 VARIATION OF SHARE CAPITAL**

22.1 ~~6.1~~The Company may from time to time by Special Resolution:

- (a) increase or reduce the number of shares which it is authorised to issue; or
- (b) consolidate all or any of its shares (whether issued or not) into fewer shares.

22.2 ~~22.1~~All new shares shall be subject to the provisions of these Articles with reference to transfer, transmission, forfeiture and otherwise.

22.3 ~~22.2~~Subject to the provisions of the Law, the Company may by Special Resolution from time to time reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may:

- (a) extinguish or reduce the liability of any of its shares in respect of share capital not paid up; or
- (b) with or without extinguishing or reducing liability on any of its shares:
  - (i) cancel any paid-up share capital which is lost or which is not represented by available assets; or
  - (ii) pay off any paid-up share capital which is in excess of the requirements of the Company;
  - (iii) and may, if and so far as is necessary, alter its Memorandum of Association by reducing the amount of its share capital and of its shares accordingly.

## **23 GENERAL MEETINGS**

23.1 The Company shall within eighteen months of its incorporation by way of continuation and, subject to the Law, in each subsequent calendar year following the calendar year in

which the first annual general meeting is held hold a general meeting as its annual general meeting in addition to any other meeting in that year. Annual general meetings shall be held at such time and place in the Island of Jersey as may be determined by the Directors.

- 23.2 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- 23.3 The Directors may call an extraordinary general meeting whenever they think fit (and shall do so upon the request of a Custodian in accordance with Article 6.3). Extraordinary general meetings shall be convened on such requisition, or in default may be convened by such requisitionists, and in such manner, as provided by the Law.

## **24 NOTICE OF GENERAL MEETINGS**

- 24.1 An annual general meeting or a general meeting called for the passing of a Special Resolution shall be called by at least 14 days' notice. All other meetings shall be called by at least 14 days' notice but a general meeting may be called by shorter notice if it is so agreed:
- (a) in the case of an annual general meeting, by all the Members entitled to attend and vote thereat; and
  - (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent of the total voting rights of the Members who have that right.

The notice shall specify the day, time and place of the meeting and the general nature of the business to be transacted and in the case of an annual general meeting, shall specify the meeting as such.

- 24.2 In every notice calling a meeting of the Company, or of any class of Members of the Company, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and a proxy need not also be a Member.
- 24.3 Subject to the provisions of these Articles and to any restrictions imposed on any shares, notices of every general meeting shall be given in any manner herein authorised to every Member and to:
- (a) all persons entitled to a share in consequence of the death, bankruptcy or incapacity of a Member;
  - (b) each Director;
  - (c) the Manager;
  - (d) the Custodian(s);
  - (e) the Auditors; and

- (f) such other persons as the Directors shall at any time and from time to time determine.

The Manager and the Auditors shall be entitled to attend and speak at any general meeting of the Company.

24.4 Subject to the Law, a notice of a general meeting may be published on a website providing the recipient is given separate notice of:

- (a) the publication of the notice on the website;
- (b) the place on the website where the notice may be accessed;
- (c) how it may be accessed; and
- (d) the place, date and time of the general meeting.

24.5 If a Member notifies the Company that he is unable for any reason to access the website, the Company must as soon as practicable give notice of the meeting to that Member in writing or by any other means permitted by these Articles but this will not affect when that Member is deemed to have been given notice of the meeting.

24.6 A website notice is deemed to be given when the Member is given notice of its publication.

24.7 Where the notice of meeting is published on a website, it shall continue to be published in the same place on that website from the date of the notification until the conclusion of the meeting to which the notice relates.

24.8 Proceedings at a meeting shall not be invalidated by the following:

- (a) an accidental failure to give notice of the meeting to any person entitled to notice; or
- (b) non-receipt of notice of the meeting by any person entitled to notice.

24.9 In addition, where a notice of meeting is published on a website, proceedings at the meeting shall not be invalidated merely because it is accidentally published:

- (a) in a different place on the website; or
- (b) for part only of the period from the date of the notification until the conclusion of the meeting to which the notice relates.

## **25 PROCEEDINGS AT GENERAL MEETINGS**

25.1 All business shall be deemed special that is transacted at an extraordinary general meeting, and also all business that is transacted at an annual general meeting with the exception of declaring or approving the payment of dividends, the consideration of the accounts and balance sheet and the reports of the Directors and Auditors, the election of



Directors in the place of those retiring, and the appointment and the fixing of the remuneration of the Auditors.

- 25.2 No business shall be transacted at any general meeting unless a quorum is present. Save as otherwise provided in these Articles, two persons entitled to vote upon the business to be transacted, each being a Member or a proxy for a Member shall be a quorum. A representative of a corporation authorised pursuant to Article 26.18 and present at any meeting of the Company or at any meeting of the holders of any class of shares in the Company shall be deemed to be a Member for the purpose of counting towards a quorum.
- 25.3 If within half an hour from the time appointed for the meeting or such longer interval as the Chairman of the meeting may think fit and allow a quorum is not present or if during a meeting such a quorum ceases to be present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other day and such other time and place as the Chairman may determine and if at such adjourned meeting a quorum is not present within quarter of an hour from the time appointed for holding the meeting, those Members present in person or by proxy shall be a quorum.
- 25.4 The Chairman or, failing him, some other Director nominated by the Directors shall preside as Chairman at every general meeting of the Company, but if at any meeting neither the Chairman nor such other Director be present within a quarter of an hour after the time appointed for holding the meeting, or if neither of them be willing to act as Chairman, the Directors present shall choose one of their number to be Chairman, or if no Director be present or if all the Directors present decline to take the chair, the Members present and entitled to vote shall choose one of their number to be Chairman.
- 25.5 The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted by any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more, seven clear days' notice at the least specifying the place, the day and the hour of the adjourned meeting, shall be given but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 25.6 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded. Subject to the provisions of the Law, a poll may be demanded by:
- (a) the Chairman; or
  - (b) at least two Members having the right to vote on the resolution; or
  - (c) a Member or Members representing not less than one-tenth of the total voting rights of all the Members having the right to vote on the resolution; or



- (d) a Member or Members holding shares conferring a right to vote on the resolution being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.
- 25.7 Unless a poll is so demanded, a declaration by the Chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 25.8 The instrument appointing a proxy to vote at a meeting shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of Article 25.6 a demand by a person as proxy for a Member shall be the same as a demand by a Member.
- 25.9 If a poll is duly demanded, it shall be taken in such manner and at such place as the Chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The Chairman may, in the event of a poll, appoint scrutineers and may fix a day, time and place for the purpose of declaring the result of the poll.
- 25.10 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 25.11 A poll demanded on the election of a Chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the Chairman directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 25.12 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 25.13 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 25.14 No notice need be given of a poll not taken forthwith if the day, time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven days' notice shall be given specifying the day, time and place at which the poll is to be taken.

## **26 VOTES OF MEMBERS**

- 26.1 Subject to any special rights or restrictions for the time being attached to any class of shares:
- (a) on a show of hands every Member who is present in person shall have one vote;

- (b) on a poll every Member who is present in person or by proxy shall be entitled to one vote in respect of each Management Share and each Participating Share held by him,

provided that the Directors, the Manager, the Investment Manager, the relevant Custodian, or any Associate thereof, shall not be entitled to vote any shares registered in their name (or in the name of any nominee thereof) in respect of any matter in which they may have a material interest.

- 26.2 Notwithstanding the appointment of a proxy, a Member may attend and vote at a meeting or adjourned meeting. If a Member votes on any resolution a vote by his proxy on the same resolution, unless in respect of different shares, shall be invalid.
- 26.3 In the case of joint holders of a share, the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the share.
- 26.4 A Member in respect of whom an order has been made by any court having jurisdiction (whether in Jersey or elsewhere) in matters concerning mental disorder may vote whether on a show of hands or on a poll, by his attorney, curator, receiver or other person authorised in that behalf appointed by such court and any such attorney, curator, receiver or other person may on a poll vote by proxy PROVIDED THAT such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Office or at such other place as is specified in accordance with the Articles for the deposit of instruments of proxy not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which such person claims to vote.
- 26.5 No Member shall, unless the Directors otherwise determine, be entitled to vote at any general meeting or at any separate meeting of the holders of any class of shares in the Company, either personally or by proxy, or to exercise any rights as a Member unless all calls or other sums presently payable by him in respect of shares in the Company of which he is the holder or one of the joint holders have been paid.
- 26.6 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
- 26.7 On a poll votes may be given either personally or by proxy.
- 26.8 On a poll, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all votes he uses in the same way.
- 26.9 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or if the appointer is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. If the directors so resolve, the Company may accept an Electronic Record of that instrument delivered in the

manner specified below and otherwise satisfying the Articles about authentication of Electronic Records.

- 26.10 Any person (whether a Member or not) may be appointed by a Member to act as a proxy. A Member may appoint more than one proxy to attend on the same occasion.
- 26.11 The Directors may require the production of any evidence which they consider necessary to determine the validity of any appointment of a proxy.
- 26.12 A Member may revoke the appointment of a proxy at any time by notice to the Company (or such person as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the Company) duly signed in accordance with the Article above about signing proxies; but such revocation will not affect the validity of any acts carried out by the proxy before the directors of the Company had actual notice of the revocation.
- 26.13 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be delivered so that it is received by the Company (or such person as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the Company) not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. They must be delivered in either of the following ways:
- (a) In the case of an instrument in writing, it must be left at or sent by post:
    - (i) to the registered office of the Company; or
    - (ii) to such other place specified in the notice convening the meeting or in any form of appointment of proxy sent out by the Company in relation to the meeting.
  - (b) If, pursuant to the notice provisions, a notice may be given to the Company in an Electronic Record, an Electronic Record of an appointment of a proxy must be sent to the address specified pursuant to those provisions unless another address for that purpose is specified:
    - (i) in the notice convening the meeting; or
    - (ii) in any form of appointment of a proxy sent out by the Company in relation to the meeting; or
    - (iii) in any invitation to appoint a proxy issued by the Company in relation to the meeting.
- 26.14 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.

26.15 An instrument of proxy shall be in the following form or such other form as the Directors may approve:

**"FORM OF PROXY**

I/We

of

being a Member/Members of the Company

hereby appoint

or failing him,

of

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

Signed this                    day of                    .

This form is to be used                    \*in favour of / against                    the Resolution(s).

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

\* Strike out whichever is not desired."

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

26.17 A vote given or poll demanded in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation or determination of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the share in respect of which the instrument of proxy is given, PROVIDED THAT no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the Office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

26.18 Any corporation which is a Member may by resolution of its directors or other governing body or officers authorised by such body, authorise such person as it thinks fit to act as its

representative at any meeting of the Company or at any meeting of the holders of shares of any class in the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member and such corporation shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present thereat.

## **27 DIRECTORS**

- 27.1 Unless otherwise determined by Ordinary Resolution, the number of Directors shall not be subject to any maximum but shall be not less than two.
- 27.2 A Director need not be a Member, but shall be entitled to receive notice of and attend all general meetings of the Company and all meetings of any class of members of the Company.

## **28 ALTERNATE DIRECTORS**

- 28.1 Any Director (other than an alternate director) may appoint any other Director, or any other person, to be an alternate director and may remove from office an alternate director so appointed by him.
- 28.2 An alternate director shall be entitled to attend, be counted towards a quorum and vote at any meeting of Directors and of any meeting of committees of Directors of which his appointor is a member at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director. It shall not be necessary to give notice of such a meeting to an alternate director.
- (a) An alternate director shall cease to be an alternate director if his appointor ceases to be a Director.
- (b) Any appointment or removal of an alternate director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 28.3 Save as otherwise provided in these Articles, an alternate director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.

## **29 POWERS OF DIRECTORS**

- 29.1 Subject to the provisions of the Law, the Memorandum and these Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company in any part of the world. No alteration of the Memorandum or these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles and a meeting of

Directors at which a quorum is present may exercise all powers exercisable by the Directors. If an Ordinary Resolution is passed reducing the minimum number of Directors to one, a Director who has been appointed to act as a sole Director shall have and may exercise all the powers and authorities in and over the affairs of the Company as by these Articles are conferred on the Directors.

- 29.2 The Directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

### **30 DELEGATION OF DIRECTORS' POWERS**

The Directors may delegate any of their powers to any committee consisting of one or more Directors and (if thought fit) one or more other persons but a majority of the members of the committee shall be Directors. No resolution of the committee shall be effective unless a majority of those present when it is passed are Directors. They may also delegate to any Director such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee shall be governed by the Articles regulating the proceedings of Directors so far as they are capable of applying.

### **31 APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 31.1 The first Directors shall be determined in writing by the subscribers to the Memorandum, or a majority of them.
- 31.2 The Directors shall have power at any time, and from time to time, without sanction of the Company in general meeting, to appoint any person to be a Director, either to fill a casual vacancy or as an additional Director.
- 31.3 The Company may by Ordinary Resolution:
- (a) appoint any person as a Director; and
  - (b) remove any person from office as a Director.

Provided that no person, other than a retiring Director shall, unless recommended by the Directors for appointment, be eligible for the office of a Director at any general meeting unless, not less than seven nor more than forty-eight clear days before the day appointed for the meeting, there shall have been given to the Company notice in writing by some Member duly qualified to be present and vote at the meeting for which such notice is given of his intention to propose such person for appointment, and also notice in writing signed by the person to be proposed of his willingness to be appointed.

- 31.4 A Director may retire from office as a Director by giving notice in writing to that effect to the Company at the Office, which notice shall be effective upon such date as may be specified in the notice, failing which upon delivery to the Office.

## 32 DISQUALIFICATION AND REMOVAL OF DIRECTORS

32.1 The office of a Director shall be vacated if:

- (a) he ceases to be a Director by virtue of any provision of the Law or becomes prohibited by law from, or is disqualified from, being a Director; or
- (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) he resigns his office by notice to the Company; or
- (d) he becomes of unsound mind; or
- (e) he is given notice by all other Directors (not being less than two in number) to vacate office; or
- (f) he is absent from meetings of the Directors for four successive meetings without leave expressed by a resolution of the Directors and the Directors resolve that his office be vacated; or
- (g) the Company so resolves by Ordinary Resolution.

## 33 REMUNERATION OF DIRECTORS

~~The Executive Directors of the Company shall be entitled each receive~~ by way of remuneration up to USD 10,000 ~~each per annum per executive Director and GBP 20,000 each per annum per non-executive Director or to~~ and non-executive Directors of the Fund shall each receive by way of remuneration up to GBP 20,000 per annum or, in respect of all Directors of the Company, such greater remuneration as the Company may by Ordinary Resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

## 34 DIRECTORS' EXPENSES

The Directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance outside Jersey at meetings of Directors or committees of Directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

## 35 DIRECTORS' APPOINTMENTS AND INTERESTS

35.1 Subject to the provisions of the Law, and provided that he has disclosed to the Directors the nature and extent of any material interests of his, a Director notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;



- (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested;
- (c) shall not subject as provided hereafter, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit provided that if and to the extent that any Director shall receive any fees from any such office or employment held as a direct result of any Investment made by the Company, such Director shall account to the Company for such fees; and
- (d) may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as though he were not a director of the Company.

35.2 For the purposes of the preceding Article:

- (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement with a specified person or class of persons shall be deemed to be sufficient disclosure of his interest in any such transaction or arrangement; and
- (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

## **36 PROCEEDINGS OF DIRECTORS**

36.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes the Chairman shall have a second or casting vote. A Director who is also an alternate Director shall be entitled to a separate vote for each Director for whom he acts as alternate in addition to his own vote.

36.2 The quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two. A person who is an alternate director shall be counted in the quorum and any Director acting as an alternate director shall also be counted as one for each of the Directors for whom he acts as alternate. Any Director enabled to participate in the proceedings of a meeting by means of a communication device (including a telephone) which allows all of the other Directors present at such meeting to hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (in each case whether in person or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum.

36.3 The continuing Directors or the only continuing Director may act notwithstanding any vacancies in their number, but, if the number of Directors is less than the number fixed as



the quorum, the continuing Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting.

- 36.4 The Directors may appoint one of their number to be the Chairman of the board of Directors and may at any time remove him from that office. Unless he is unwilling to do so, the Director so appointed shall preside at every meeting of Directors at which he is present. But if there is no Director holding that office, or if the Director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be Chairman of the meeting.
- 36.5 All acts done by a meeting of Directors, or of a committee of Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.
- 36.6 A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors; but a resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.
- 36.7 A Director may vote in respect of any transaction, arrangement or proposed transaction or arrangement in which he has an interest which he has disclosed in accordance with these Articles and if he does vote, his vote shall be counted, and he shall be counted towards a quorum at any meeting of the Directors at which any such transaction or arrangement or proposed transaction or arrangement shall come before the Directors for consideration.
- 36.8 Where proposals are under consideration concerning the appointment of two or more Directors to offices or employment with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each Director separately and each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

### **37 SECRETARY**

Subject to the provisions of the Law, a Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them.

### **38 MINUTES**

The Secretary shall cause minutes to be made in books kept for the purpose in accordance with the Law.

### 39 THE SEAL

- 39.1 The Seal shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or by a second Director.
- 39.2 Subject to the provisions of the Law, the Directors may determine to have:
- (a) an official seal for use in any country territory or place outside the Island of Jersey, which shall be a facsimile of the common seal of the Company. Any such official seal shall in addition bear either the name of the country in which it is to be used or the words **branch seal**;
  - (b) an official seal for use only in connection with the sealing of securities issued by the Company and such official seal shall be a facsimile of the common seal of the Company but shall in addition bear the word **securities**.

### 40 DIVIDENDS

- 40.1 Subject to the provisions of the Law, the Company may by Ordinary Resolution declare dividends in respect of Participating Shares in accordance with the respective rights of the Members out of the sources permitted by the Law attributable to the Class Fund relating to such Participating Shares, but no dividend shall exceed the amount recommended by the Directors, and the Directors may if they think fit recommend that no dividend be declared and, where relevant, that all profits of the Company or of any particular Class Fund may be accumulated.
- 40.2 Subject to the provisions of the Law, the Directors may if they think fit pay interim dividends in respect of Participating Shares of any class out of the sources permitted by the Law having regard, where relevant, to the profits of the Company available for distribution and in no event shall the profits or gains of a particular Class Fund be used to pay dividends on Participating Shares relating to any other Class Fund.
- 40.3 No dividend shall be payable to the holders of the Management Shares.
- 40.4 Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid, but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.
- 40.5 Any resolution declaring a dividend on Participating Shares of any class, whether a resolution of the Company in general meeting or a resolution of the Directors, may specify that the same shall be payable to the persons registered as the holders of Participating Shares of the class concerned at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed and thereupon the dividend shall be payable to such persons in accordance with their

respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend of transferors and transferees of any shares of the relevant class.

- 40.6 A general meeting declaring a dividend may, upon the recommendation of the Directors, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the Directors may settle the same and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any Member upon the footing of the value so fixed in order to adjust the rights of Members and may vest any assets in trustees.
- 40.7 Any dividend or other moneys payable in respect of a share may be paid by cheque or warrant (or electronically transmitted to a bank at the Member's request and expense) sent by post to the registered address of the person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by reason of the death, bankruptcy or incapacity of the holder, to the registered address of the one of those persons who is first named in the Register or to such person and to such address as the person or persons entitled may in writing direct (and in default of which direction to that one of the persons jointly so entitled as the Directors shall in their absolute discretion determine). Every cheque or warrant shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque or warrant shall be a good discharge to the Company. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share.
- 40.8 The Directors may deduct from any dividend or other moneys payable to any Member on or in respect of a share, all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to shares.
- 40.9 All unclaimed dividends may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. No dividends shall bear interest against the Company. The payment by the Directors of any unclaimed dividend or other moneys payable on or in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof.
- 40.10 Any dividend which has remained unclaimed for 10 years from the date when it became due for payment shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company.

## **41 CAPITALISATION OF PROFITS**

- 41.1 Subject to the provisions of the Law, the holders of Participating Shares of any class may by Ordinary Resolution, upon the recommendation of the Directors, resolve that it is desirable to capitalise any part of the amount for the time being:
- (a) standing to the credit of any of the Company's reserve accounts attributable to that class (including capital or revenue reserve); or
  - (b) standing to the credit of the profit and loss account attributable to that class; or

- (c) which is otherwise available for distribution to holders of shares of that class and not required for payment of dividend on any shares with a preferential right to dividend,

and accordingly that such sum or sums be set free for distribution amongst the Members who would have been entitled thereto if it had been distributed by way of dividend and in the same proportion on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any Participating Shares of that class held by such Members respectively or in paying up in full unissued Participating Shares of that class to be allotted and distributed (credited as fully paid up) to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, but the capital or revenue reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to Members credited as fully paid up;

- 41.2 Whenever such a resolution as aforesaid shall have been passed the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision by payment in cash or otherwise as they think fit in relation to shares becoming distributable in fractions and to authorise any person to enter on behalf of all the Members entitled thereto into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares to which they may be entitled upon such capitalisation or (as the case may require) for the payment up by the Company on their behalf by the application thereto of their respective proportions of the profits resolved to be capitalised or of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such Members.

## **42 STATED CAPITAL**

- 42.1 The Directors shall establish in respect of each class of Participating Shares an account to be called the stated capital account and shall carry to the credit of such account from time to time the sums required to be credited thereto in accordance with the provisions of these Articles.
- 42.2 There shall be debited to the stated capital account applicable to the relevant class of Participating Shares on the redemption of a Participating Share of that class the Redemption Price in the event and to the extent that the Directors do not exercise their discretion to pay such sum in whole or in part out of the other sources permitted by the Law attributable to that class of Participating Shares.

## **43 RESERVE ACCOUNTS**

The Directors may establish in respect of each Class Fund a reserve account and before the declaration of a dividend on any class of Participating Shares may set aside any part of the profits of the relevant Class Fund and carry to the credit of any reserve account maintained for that Class Fund such sums as they think proper which shall, at the discretion of the Directors, be applicable for any purpose to which the profits or reserves

may be properly applied and pending such application may at the like discretion be employed in the business of the Company and invested in such Investments as the Directors may from time to time think fit.

#### **44 ACCOUNTS**

44.1 The Directors shall cause to be kept proper accounts with respect to:

- (a) all sums of money received and expended in relation to each Class Fund and the matters in respect of which such receipt and expenditure takes place;
- (b) all sales and purchases in relation to each Class Fund; and
- (c) the assets and liabilities of each Class Fund,

so as to enable the accounts of each Class Fund and any report to Members to be prepared in accordance with these Articles and the Law.

44.2 The books of account shall be kept at the Office, or at such other place as the Directors think fit, and shall always be open to inspection by the Directors. No Member (other than a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by the Law or as authorised by the Directors or by Ordinary Resolution.

44.3 The Directors shall cause to be prepared in respect of each Class Fund a profit and loss account, balance sheet and a report made up to the Accounting Dates and the Interim Accounting Dates for each of the Class Funds and such other dates as the Directors may determine which in the case of the profit and loss accounts, balance sheets and reports for the Class Funds made up to the Accounting Date, shall be prepared in accordance with the Law and shall be laid before the Company in general meeting.

44.4 Every account of the Directors when audited and approved by any general meeting shall be conclusive except as regards any error discovered therein within three months next after the approval thereof. Whenever such an error is discovered within that period the accounts shall forthwith be corrected and thereupon shall be conclusive.

44.5 A printed copy of every account, balance sheet and report made up to each Accounting Date and Interim Accounting Date for each of the Class Funds shall be delivered or sent in accordance with Article 44.6 to every person entitled to receive notices in accordance with Article 24.3 within five months of such Accounting Date or Interim Accounting Date (as the case may be) and not less than fourteen days prior to any general meeting of the Company before which they are to be laid PROVIDED THAT this Article shall not require a copy of these documents to be sent to more than one of the joint holders of any shares.

44.6 A printed copy of every account, balance sheet and report made up to each Accounting Date and Interim Accounting Date for each of the Class Funds and any accounts and associated directors' report or auditor's report of the Company that are required or permitted to be sent to any person pursuant to any law shall be treated as properly sent to that person if:

- (a) they are sent to that person in accordance with the notice provisions; or
- (b) they are published on a website providing that person is given separate notice of:
  - (i) the fact that publication of the documents has been published on the website;
  - (ii) the address of the website;
  - (iii) the place on the website where the documents may be accessed; and
  - (iv) how they may be accessed.

44.7 If, for any reason, a person notifies the Company that he or she is unable to access the website, the Company must, as soon as practicable, send the documents to that person by any other means permitted by these Articles. This, however, will not affect when that person is taken to have received the documents under the next Article.

44.8 Documents sent by being published on a website in accordance with the preceding two Articles are only treated as sent at least 14 days before the date of the meeting at which they are to be laid if:

- (a) the documents are published on the website throughout a period beginning at least 14 days before the date of the meeting and ending with the conclusion of the meeting; and
- (b) the person is given at least 14 days' notice of the meeting.

44.9 If, for the purpose of a meeting, documents are sent by being published on a website in accordance with the preceding Articles, the proceedings at that meeting are not invalidated merely because:

- (a) those documents are, by accident, published in a different place on the website to the place notified; or
- (b) they are published for part only of the period from the date of notification until the conclusion of that meeting.

## **45 AUDIT**

45.1 The Company shall at each annual general meeting appoint Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.

45.2 The first Auditors of the Company shall be appointed by the Directors at any time before the first annual general meeting of the Company and the Auditors so appointed shall hold office until the conclusion of that meeting.

45.3 The Directors may fill any casual vacancy in the office of Auditors but while any such vacancy continues the surviving or continuing Auditors if any may act.

- 45.4 The remuneration of any Auditors appointed by the Directors shall be fixed by the Directors and of any Auditors appointed by the Company shall be fixed by the Company at the annual general meeting at which such appointment shall be made or in such manner as such meeting may determine.
- 45.5 The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- 45.6 The Auditors shall make a report to the Members and to the holders of the relevant class of Participating Shares on the profit and loss account and balance sheet in respect of each of the Class Funds made up to each Accounting Date for such Class Fund and each report shall state:
- (a) whether or not they have obtained all the information and explanations they have required; and
  - (b) whether in their opinion the balance sheet referred to in the report is properly drawn so as to exhibit a true and fair view of the state of the Class Fund's affairs or, alternatively, are presented fairly in all material respects; and
  - (c) whether the accounts have been audited in accordance with approved accounting standards.

## **46 NOTICES**

- 46.1 Save where these Articles provide otherwise, any notice to be given to or by any person pursuant to these Articles shall be:
- (a) in writing signed by or on behalf of the giver in the manner set out below for written notices;
  - (b) subject to the next Article, in an Electronic Record signed by or on behalf of the giver by Electronic Signature and authenticated in accordance with Articles about authentication of Electronic Records; or
  - (c) where these Articles expressly permit, by the Company by means of a website,
- except that a notice calling a meeting of the Directors need not be in writing.
- 46.2 A notice may only be given to the Company in an Electronic Record if:
- (a) the directors so resolve;
  - (b) the resolution states how an Electronic Record may be given and, if applicable, specifies an email address for the Company; and
  - (c) the terms of that resolution are notified to the Members for the time being and, if applicable, to those directors who were absent from the meeting at which the resolution was passed.



If the resolution is revoked or varied, the revocation or variation shall only become effective when its terms have been similarly notified.

- 46.3 A notice may not be given by Electronic Record to a person other than the Company unless the recipient has notified the giver of an Electronic address to which notice may be sent.
- 46.4 A notice by either the Company or a Member pursuant to these Articles may be given on behalf of the Company or a Member by a director or the Secretary or a Member. Without limitation to the Articles about the power to allow non-manual signatures and facsimile printing of the seal, the signature of a person on a notice given by the Company may be written, printed or stamped.
- 46.5 Save where these Articles provide otherwise, a notice in writing may be given personally to the recipient, or left at (as appropriate) the Member's or director's registered address or the Company's registered office, or posted to that registered address or registered office.
- 46.6 In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the Register in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders.
- 46.7 A written notice shall be signed when it is autographed by or on behalf of the giver, or is marked in such a way as to indicate its execution or adoption by the giver.
- 46.8 An Electronic Record may be signed by an Electronic Signature.
- 46.9 A notice given by Electronic Record shall be deemed sent if an Electronic Record is kept demonstrating the time, date and content of the transmission, and if no notification of failure to transmit is received by the giver.
- 46.10 A notice given in writing shall be deemed sent and shall be conclusive evidence that the notice was given if the giver can provide proof that the envelope containing the notice was properly addressed, pre-paid and posted, or that the written notice was otherwise properly transmitted to the recipient.
- 46.11 A notice may be given by the Company to the persons entitled to a share in consequence of the death, bankruptcy or incapacity of a Member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a Member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or curator of the Member or by any like description, at the address, if any, supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death, bankruptcy or incapacity had not occurred. If more than one person would be entitled to receive a notice in consequence of the death, bankruptcy or incapacity of a Member, notice given to any one of such persons shall be sufficient notice to all such persons.
- 46.12 Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.



46.13 A notice shall be deemed to have been received by the intended recipient in accordance with the following table.

<b>Method for giving notice</b>	<b>When deemed to be received</b>
Personally	At the time and date of delivery
By leaving it at the Member's registered address	At the time and date it was left
By sending it by post in a prepaid envelope addressed to the Member at his registered address	The expiration of 48 hours after it was posted
By Electronic Record (other than publication on a website), to recipient's Electronic address	The expiration of 48 hours after it was sent
By publication on a website (notice of general meetings and sending of accounts and reports)	For notice of a general meeting of Members, at the time and date that the recipient is deemed to have received notice of the publication (Articles 24.4 and 24.6)  For accounts and reports specified in Article 44.6, in accordance with Article 44.8

46.14 A Member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

46.15 Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the Register, has been duly given to a person from which he derives his title.

46.16 Any summons, notice, order or other documents required to be sent to or served upon the Company, or upon any officer of the Company may be sent or served by leaving the same and sending it through the post in a prepaid letter envelope or wrapper, addressed to the Company or to such officer at the Office.

46.17 None of the preceding notice provisions shall derogate from the Articles about the delivery of written resolutions of directors and written resolutions of Members.

**47 AUTHENTICATION OF ELECTRONIC RECORDS**

47.1 Without limitation to any other provision of these Articles, any notice, written resolution or other document under these Articles that is sent by Electronic means by a Member, or by

the Secretary, or by a director or other Officer of the Company, shall be deemed to be authentic if either Article 47.2 or Article 47.4 applies.

47.2 An Electronic Record of a notice, written resolution or other document sent by Electronic means by or on behalf of one or more Members shall be deemed to be authentic if the following conditions are satisfied:

- (a) the Member or each Member, as the case may be, signed the original document, and for this purpose **Original Document** includes several documents in like form signed by one or more of those Members; and
- (b) the Electronic Record of the Original Document was sent by Electronic means by, or at the direction of, that Member to an address specified in accordance with these Articles for the purpose for which it was sent; and
- (c) Article 47.7 does not apply.

47.3 For example, where a sole Member signs a resolution and sends the Electronic Record of the original resolution, or causes it to be sent, by facsimile transmission to the address in these Articles specified for that purpose, the facsimile copy shall be deemed to be the written resolution of that Member unless Article 47.7 applies.

47.4 An Electronic Record of a notice, written resolution or other document sent by or on behalf of the Secretary or an Officer or Officers of the Company shall be deemed to be authentic if the following conditions are satisfied:

- (a) the Secretary or the Officer or each Officer, as the case may be, signed the original document, and for this purpose **Original Document** includes several documents in like form signed by the Secretary or one or more of those Officers; and
- (b) the Electronic Record of the Original Document was sent by Electronic means by, or at the direction of, the Secretary or that Officer to an address specified in accordance with these Articles for the purpose for which it was sent; and
- (c) Article 47.7 does not apply.

This Article applies whether the document is sent by or on behalf of the Secretary or Officer in his own right or as a representative of the Company.

47.5 For example, where a sole director signs a resolution and scans the resolution, or causes it to be scanned, as a PDF version which is attached to an email sent to the address in these Articles specified for that purpose, the PDF version shall be deemed to be the written resolution of that director unless Article 47.7 applies.

47.6 For the purposes of these Articles about the authentication of Electronic Records, a document will be taken to be signed if it is signed manually or in any other manner permitted by these Articles.

47.7 A notice, written resolution or other document under these Articles will not be deemed to be authentic if the recipient, acting reasonably:

- (a) believes that the signature of the signatory has been altered after the signatory had signed the original document; or
- (b) believes that the original document, or the Electronic Record of it, was altered, without the approval of the signatory, after the signatory signed the original document; or
- (c) otherwise doubts the authenticity of the Electronic Record of the document,

and the recipient promptly gives notice to the sender setting the grounds of its objection. If the recipient invokes this Article, the sender may seek to establish the authenticity of the Electronic Record in any way the sender thinks fit.

#### **48 DESTRUCTION OF DOCUMENTS**

48.1 The Company shall be entitled to destroy all instruments of transfer of shares which have been registered at any time after the expiration of ten years from the date of registration thereof and all dividend mandates and notifications of change of address at any time after the expiration of six years from the date of recording thereof and it shall conclusively be presumed in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was a valid and effective instrument duly and properly registered and that every other document hereinbefore mentioned had been reflected in accordance with the recorded particulars thereof in the books or records of the Company PROVIDED ALWAYS that:

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

#### **49 WINDING UP**

49.1 If the Company shall be wound up the liquidator shall, subject to the Law, apply the assets of the Company in such manner and order as he thinks fit in satisfaction of creditors' claims. The liquidator shall in relation to the assets available for distribution among the Members make in the books of the Company such transfers thereof to and from the Class Funds as may be necessary in order that the effective burden of such creditors' claim may be shared between the holders of Participating Shares of different classes in such proportions as the liquidator in his absolute discretion may think equitable having regard to the provisions of Article 9.

49.2 The assets available for distribution among the Members shall then be applied in the following priority:

- (a) First, in payment to the holders of the Management Shares of sums up to the amount paid up thereon out of the assets of the Company not comprised within any of the Class Funds remaining. In the event that there are insufficient assets as aforesaid to enable such payment in full to the holders of the Management Shares to be made no recourse shall be had to the assets comprised in any of the Class Funds;
- (b) Secondly, in payment to the holders of each class of Participating Shares of any balance then remaining in the Class Fund relating to such class of Participating Shares, such payment being made in proportion to the number of shares of that class held; and
- (c) Thirdly, in payment to the holders of the Management Shares of any balance then remaining and not comprised in any of the Class Funds, such payment being made in proportion to the number of Management Shares held.

49.3 If the Company shall be wound up, the liquidator may with the authority of a Special Resolution and any other sanction required by the Law, divide among the Members in specie the whole or any part of the assets of the Company and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he deems fair upon any one or more class or classes of property and, subject to Article 49.2, may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may with the like authority vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator shall think fit and the liquidation of the Company may be closed and the Company dissolved but so that no Member shall be compelled to accept any shares in respect of which there is liability.

## **50 INDEMNITY**

In so far as the Law allows, every present or former officer of the Company shall be indemnified out of the assets of the Company against any loss or liability incurred by him by reason of being or having been such an officer. The Directors may without sanction of the Company in general meeting authorise the purchase or maintenance by the Company for any officer or former officer of the Company of any such insurance as is permitted by the Law in respect of any liability which would otherwise attach to such officer or former officer.

## **51 SUBSIDIARY COMPANY**

Investments or cash which would otherwise form part of the assets of the Company may be owned beneficially by a company or companies incorporated anywhere in the world provided that:

- (a) all of the issued share capital of any such company or companies for the time being shall be beneficially owned by the Company and registered in the name of the relevant Custodian or its nominee on behalf of the Company;

- (b) all Investments and cash beneficially owned by any such company shall be deemed for all of the purposes of these Articles to form part of the assets of the Company and the relevant Class Fund to which they relate and in particular, but without in any way limiting the foregoing, such Investments and cash shall be aggregated with the other Investments and cash included or deemed to be included among the assets of the Company and the relevant Class Fund for the purposes of any limits upon Investments and any such company shall be bound by all such limits accordingly. Such Investments and cash shall be aggregated with other Investments and cash included or deemed to be included among the assets of the Company and the relevant Class Fund for valuation purposes; and
- (c) when ascertaining Net Asset Value there shall be excluded from such valuation any amounts due to the Company from any such company and the value of any shares in any such company held by the Company or its nominee or the relevant Custodian or its nominee on behalf of the Company, and the Net Asset Value of the Company and the relevant Class Fund and any such company shall accordingly be valued on a consolidated basis.

## **52 BORROWING POWERS**

- 52.1 Subject as hereinafter provided, the Directors may exercise all the powers of the Company to borrow or raise money (including the power to borrow for the purpose of redeeming shares) and secure any debt or obligation of or binding on the Company in any manner including by the issue of debentures (perpetual or otherwise) and to secure the repayment of any money borrowed raised or owing by mortgage charge pledge or lien upon the whole or any part of the Company's undertaking property or assets (whether present or future) and also by a similar mortgage charge pledge or lien to secure and guarantee the performance of any obligation or liability undertaken by the Company or any third party.
- 52.2 The Directors shall restrict the borrowings of the Company and exercise all voting and other rights or powers of control exercisable by the Company in relation to its subsidiary companies (if any) so as to secure (as regards subsidiary companies so far as by such exercise they can secure) that the aggregate principal amount (including any fixed or minimum premium payable on final repayment) of moneys borrowed by the Company and its subsidiaries (if any) in relation to each Class Fund (exclusive of intra-group borrowings) shall not without the previous sanction of an Ordinary Resolution of the holders of Participating Shares of the relevant class exceed at the time such borrowing is incurred or increased as the case may be a sum equal to such percentage of the Net Asset Value of the relevant Class Fund as may be specified from time to time in the Prospectus provided that this limitation may be exceeded for periods of not more than three months at any one time in order to enable the Company to fund:
- (a) the acquisition cost of Investments provided that the Directors reasonably believe that the Company will be able to repay such borrowings within such period of three months out of the proceeds of sale of other Investments; or
  - (b) the payment of redemption proceeds in accordance with Article 12.1; or

(c) the operating expenses of the Company.

52.3 For the purposes of this Article moneys borrowed shall be deemed to include:

- (a) the principal amount of any issued debentures notwithstanding that the same be issued in whole or in part for a consideration other than cash;
- (b) the outstanding amount of acceptances by any bank or accepting house under any acceptance credit opened on behalf of and in favour of the Company or its subsidiaries (if any);
- (c) the principal amount of any moneys borrowed the repayment whereof is guaranteed by the Company or its subsidiaries (if any) except so far as either:
  - (i) the debt owing in respect of such borrowed moneys is for the time being beneficially owned by the Company or its subsidiaries (if any); or
  - (ii) such borrowed moneys are otherwise taken into account as moneys borrowed by the Company or its subsidiaries (if any).

52.4 No person dealing with the Company shall by reason of the foregoing provision be concerned to see or enquire whether this limit is observed and no debt incurred or security given in excess of such limit shall be invalid or ineffectual unless the lender or the recipient of the security had at the time when the debt was incurred or security given express notice that the limit hereby imposed had been or would thereby be exceeded.

### **53 LENDING**

The Company shall not make any loan or give any guarantee without the consent in writing of the relevant Custodian or the approval of an Ordinary Resolution of the holders of the class of Participating Shares out of the Class Fund of which the loan or guarantee is proposed to be made. For the purposes of this Article the expression **loan** shall not include:

- (a) any deposit with a bank or deposit-taking institution;
- (b) the acquisition of any Investment for the time being dealt in on any stock exchange or over-the-counter market;
- (c) any loan to a subsidiary of the Company; or
- (d) any loan made, in connection with any borrowing by the Company, to or to the order of the lender of the moneys so borrowed except to the extent that such loan exceeds an amount equal to one hundred and fifty per cent (150%) of such borrowings.

### **54 INTEREST ON DEPOSITED CASH**

No cash forming part of the assets of the Company shall be transferred to or held on deposit account with the Custodian, the Manager, any Investment Manager or any Associate of any of the foregoing unless the terms thereof are no less beneficial to the

Company than those which could reasonably be expected to have been applicable to such a deposit of the relevant term in the relevant currency on the same day effected or entered into at arm's length by a person other than the Custodian, the Manager, any Investment Manager or any Associate of the foregoing (as the case may be) having regard to the best interests of the Company.