

INDEPENDENT TRUSTEE COMPANY LIMITED

(Trustee)

DECLARATION OF TRUST

THE CUSTODY TRUST

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THE CUSTODY TRUST

THIS DECLARATION OF TRUST is made the 24th day of April 2014

BY

INDEPENDENT TRUSTEE COMPANY LIMITED having its registered office at Harmony Court, Harmony Row, Dublin 2 (the "Trustee").

WHEREAS

The Trustee has entered into this Declaration of Trust to constitute The Custody Trust (the "Trust") as a closed-ended umbrella unit trust for the purposes of establishing a custodial vehicle for Pension Investors (as hereinafter defined) of the Trustee or any associated company of the Trustee, and to conduct its duties in accordance with the provisions of Section 731 (5) (a) of the TCA.

NOW THIS DEED WITNESSES as follows:

1.00 **DEFINITIONS**

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

"Accounting Date" means 31st December in each year for all Sub-funds, or such other date as the Trustee may from time to time determine in respect of one or more Sub-funds.

"Accounting Period" means, in respect of each Sub-fund, a period ending on and including an Accounting Date and commencing (in the case of the first such period) from the initial closing of the Sub-fund or from the day next following the preceding Accounting Date (as the case may be).

"Business Day" means in respect of each Sub-fund every day which is a bank business day in Dublin or such other place from time to time as the Trustee may in relation to one or more Sub-funds determine.

"Clause" or "sub-Clause" means a clause or sub-clause of this Declaration of Trust.

"Custodial Account" means the account described in Clause 15.04.

"Declaration of Trust" means this declaration of trust as may be modified or amended from time to time together with any Supplemental Declaration of Trust as may be created, modified or amended from time to time.

"Deposited Property" means the Investments of each Sub-fund for the time being held by the Trustee under this Declaration of Trust and any Supplemental Declaration of Trust.

"Disbursements" includes in relation to the Trustee all disbursements properly made by the Trustee in connection with its trusteeship or the management of, or professional advice obtained in relation to, each of the Sub-funds hereunder including (but not limited to) couriers' fees, telecommunication costs and expenses and the fees and out-of-pocket expenses of any investment or other manager or sub-custodian appointed by it pursuant to the provisions hereof and all costs, charges and expenses of every kind which it may suffer or incur in connection with such trusteeship of each of the Sub-funds (including the establishment thereof) and the ongoing administration of the relevant Sub-fund or otherwise together with the costs, charges and expenses, including translation costs, of any notices including but not limited to reports, prospectuses, listing particulars and newspaper notices given to Unitholders in whatever manner plus value added tax (if any) and all matters attendant thereon or relative thereto and all legal and other professional expenses incurred or suffered by it in relation to or in any way arising out of each of the Sub-funds (including the establishment thereof) and any value added tax liability incurred by the Trustee arising out of the exercise of its powers or the performance of its duties pursuant to the provisions hereof.

"Duties and Charges" means in relation to any particular transaction, or dealing or valuation in relation to the assets of a Sub-fund, all duties, taxes, charges, fees, and other costs whether in respect of the constitution or increase of the assets of a Sub-fund or the creation, exchange, sale, purchase or transfer of Units or the purchase, proposed purchase, transfer, sale or exchange of Investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation.

"Investment" means a permitted investment as set out in Clause 6.00, including but not limited to cash, property, bonds, treasuries, securities and debt investments.

"Net Asset Value" with reference to a Sub-fund on any particular Valuation Day means the value of all assets of the Sub-fund on the relevant Valuation Day less all liabilities on the relevant Valuation Day calculated in accordance with Clause 11.00.

"Net Asset Value per Unit" means the Net Asset Value of the relevant Sub-fund divided by the number of Units of that Sub-fund in issue or deemed to be in issue on the relevant Valuation Day (rounded down to the smallest fraction of the currency in which the Sub-fund is denominated which is legal tender in the country of issue of that currency).

"Pension Investor" means such person, entity or structure as is permitted to invest directly or indirectly in the Trust by the Trustee, as may be determined and amended from time to time, those currently permitted by the Trustee being currently those persons, entities or structures exempt from Capital Gains Tax by virtue of their qualification as approved retirement funds (pursuant to Section 784A(2) of the TCA), exempt approved pension schemes (pursuant to Section 774 of the TCA), retirement annuity schemes (pursuant to Section 608(2) of the TCA), personal retirement savings accounts (pursuant to Section 608(2) of the TCA), exempt unit trusts (pursuant to Section 731(5)(a) of the TCA) or other similar entities or structures, provided that any such person, entity or structure may only be provided or administered by, or the trustee or co-trustee of any such person, entity or structure is, the Trustee or any associated company of the Trustee and (ii) is (in the case of an exempt approved pension scheme) a one-member arrangement (as defined (pursuant to the Occupational Pension Schemes (Investment) Regulations 2006) and (in all other cases) shall have a single member or beneficiary as appropriate.

"Redemption Notice" means in relation to each Sub-fund the notice referred to in Clause 14.00.

"Redemption Price" means in relation to Units of each Sub-fund the price calculated pursuant to Clause 14.00.

"Sub-fund" means each separate trust established hereunder in accordance with Clause 4.00.

"Supplemental Declaration of Trust" means a declaration supplemental to this Declaration of Trust either relating to the Trust or relating to a Sub-fund (whether executed as a deed or otherwise) in which shall be specified matters including any or all of the following matters relating to such Sub-fund and/or such other matters as the Trustee in its discretion determines:

- (b) Application and Payment Date;
- (d) Subscription Price;

- (e) Base Currency;
- (f) Accounting Date;
- (g) Valuation Policy;
- (h) Redemption Restrictions;
- (i) Trustee Fee;
- (j) Subscription Fee;
- (k) Appointment of third parties to undertake functions on behalf of the Trust;

and all of the following matters relating to such Sub-fund and/or such other matters as the Unitholders in their discretion determine:

- (i) Term;
- (ii) Minimum Subscription;
- (iii) Investment Objective and Policy;
- (iv) Investment Restrictions;
- (v) Distribution Policy.

"TCA" means the Taxes Consolidation Act 1997, as amended or modified from time to time.

"Term" means in relation to the Trust a period of 50 years from the date of this Declaration of Trust at the end of which this Trust and all Sub-funds shall be terminated and in relation to a Sub-fund the term of a Sub-fund as specified in the relevant Supplemental Declaration of Trust at the end of which the Sub-fund shall be terminated.

"Trust" means The Custody Trust and where the context so admits shall include any one or more Sub-funds established hereunder.

"Trustee" shall mean the said Independent Trustee Company Limited or such other institution as may be appointed as trustee in accordance with the provisions hereof from time to time.

"Unit" means one equal undivided share into which the beneficial interest of each Sub-fund shall be divided from time to time and includes fractions of such Units.

"Unitholder" means a Pension Investor for the time being holding units of a Sub-fund including Pension Investors holding units jointly with other holders.

"Valuation Day" means each Accounting Date together with each Business Day or Days in respect of a Sub-fund on which either a subsequent issue of Units may be made in accordance with Clause 5.04 or a redemption of Units may be made in accordance with Clauses 13.01 or 14.01.

1.02 Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender only shall include the feminine and neuter genders and words importing persons shall include firms, corporations, trusts, companies and incorporated and unincorporated bodies and the words "written" or "in writing" shall include printing, engraving, lithographing or other means of visible reproduction. The marginal notes and headings herein are inserted for convenience only and shall not affect the construction or interpretation hereof.

2.00 **DECLARATION OF TRUST BINDING ON ALL PARTIES**

The Trustee shall stand possessed of the Deposited Property upon trust exclusively for the Unitholders of the relevant Sub-fund. The provisions of this Declaration of Trust shall be binding on the Trustee and the Unitholders and all persons claiming through them respectively as if such Unitholders and persons had been party to this Declaration of Trust.

3.00 **RIGHTS OF UNITHOLDERS**

The Unitholders shall not have or acquire any right against the Trustee in respect of Units save such as are expressly conferred upon them by this Declaration of Trust. No Pension Investor shall be recognised as a Unitholder except in respect of Units attributed to and accounted for in his or its name in accordance with Clause 10.00.

4.00 **CONSTITUTION OF THE TRUST**

4.01 The Trust shall initially be constituted by and Units shall be issued in respect of cash or other assets received in accordance with the provisions of Clause 5.00 hereof.

4.02 (A) The Deposited Property of each Sub-fund shall initially be constituted out of the proceeds of the initial issue of Units of the Sub-fund. The Deposited Property of each Sub-fund thereafter shall be constituted out of the Investments and cash and other property arising from such proceeds and also out of the proceeds of Units of the relevant Sub-fund subsequently issued (or in the case of Units issued against the vesting of Investments, any moneys payable pursuant to the provisions of Clause

5.09) but less any amount standing to the credit of the Custodial Account or distributed or paid out as a Disbursement or in relation to any Duties and Charges pursuant to any provisions of this Declaration of Trust and less the subscription fee payable to the Trustee (if any).

(B) The Trustee shall establish a Sub-fund or Sub-funds from time to time and the following provisions shall apply thereto:

- (i) no Sub-fund shall be capable of having more than a single Pension Investor;
- (ii) no Sub-fund shall be an alternative investment fund or AIF ("AIF") within the meaning of the European Union (Alternative Investment Fund Managers) Regulations 2013 (the "Regulations") to which the Regulations apply, and the establishment of a Sub-fund that is an AIF shall be void;
- (iii) the records and accounts of each Sub-fund shall be maintained in such currency as the Trustee shall from time to time determine;
- (iv) the proceeds from the issue of Units in each Sub-fund (excluding the subscription fee and any applicable Duties and Charges) shall be applied in the records and accounts of the Trust for the relevant Sub-fund and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Sub-fund subject to the provisions of this Declaration of Trust;
- (v) where any asset is derived from any asset (whether cash or otherwise), such derivative asset shall be applied in the records and accounts of the Trust to the same Sub-fund as the asset from which it was derived and on each re-valuation the increase or diminution in value shall be applied to the relevant Sub-fund;
- (vi) each Sub-fund shall bear its own liabilities as may be determined at the discretion of the Trustee;
- (vii) the assets of each Sub-fund shall belong exclusively to that Sub-fund, shall be segregated from the other Sub-funds, shall not be used to discharge, directly or indirectly, the liabilities of or claims against any other Sub-fund and shall not be available for such purpose:

(viii) the governance structure, management and objective of each Sub-fund shall be entirely separate and segregated from the governance structure, management and objectives of other Sub-funds;

(ix) no Sub-fund shall be capable of being established as a compartment of any entity, structure or undertaking but shall be deemed to be a stand-alone entity and the rights and duties in respect of the Trust and each of the Sub-funds established hereunder shall be separate, with no sharing of benefits between the Sub-funds.

4.03 The Deposited Property, as selected by a Unitholder from time to time, shall be allocated for investment in a specific Sub-fund, subject to the approval of the Trustee. Any Sub-fund and the Units therein may at the discretion of the Trustee be denominated in any currency other than euros.

4.04 The Trustee shall be entitled to issue Units as Units of a particular Sub-fund. Upon the issue of a Unit, the Trustee shall allocate the proceeds of such issue to the appropriate Sub-fund.

4.05 The Trustee may at any time establish an additional Sub-fund or Sub-funds to be designated by such name or names as the Trustee may deem appropriate.

4.06 The Trustee may delegate to an administrator, management company, depositary or any other party all or any part of the Trustee's powers relating to the administration, management or custodial functions in relation to the assets of any or all Sub-funds as may be specified in the relevant Supplemental Declaration of Trust and subject to such terms as are specified therein, provided always that no such party shall be an alternative investment fund manager or AIFM ("AIFM") to which the Regulations apply in relation to a Sub-fund.

4.07 For the avoidance of doubt and without prejudice to Clause 4.06 the Trustee may appoint a third party or parties to carry out such functions as it deems appropriate on an outsourcing basis and this shall not affect its rights and duties pursuant to this Declaration of Trust.

4.08 The Trustee shall have power to close any Sub-fund by serving not less than thirty days' notice of such closure on the Unitholders in that Sub-fund.

4.09 Notwithstanding Clause 4.08, if a Sub-fund is determined to be an AIF, or a party is determined in relation to a Sub-fund to be an AIFM, to which the Regulations apply following its establishment as a Sub-fund, the Sub-fund shall be deemed to have closed forthwith upon such determination without notice to the Unitholders in that Sub-fund or any other party.

5.00 **ISSUE OF UNITS**

5.01 The Trustee shall have the exclusive right, at its sole discretion, to effect for the account of the relevant Sub-fund or Sub-funds the creation and issue of such number of Units as the Trustee may from time to time determine for cash, or by an exchange of Investments (as prescribed in Clause 5.09), at prices ascertained in accordance with the following provisions of this Clause.

5.02 No Units shall be issued directly or beneficially to (i) any person in breach of any law or requirement of any country or governmental authority; or (ii) or any person or persons in circumstances which in the opinion of the Trustee might result in the Sub-fund incurring any liability for taxation or suffering any legal, pecuniary, regulatory or material administrative disadvantage which the Sub-fund or the Trust might not otherwise have incurred or suffered; or (iii) any person who is not a Pension Investor; or (iv) any person in circumstances which would in the opinion of the Trustee result in the Sub-fund or the Trust being an AIF to which the Regulations apply.

5.03 The Trustee shall before the initial issue of Units in any Sub-fund determine the time at which, the terms upon which and the subscription price per Unit at which the initial allotment of Units of that Sub-fund shall be made.

5.04 Any subsequent issue of Units in that Sub-fund shall be made at a price equal to the Net Asset Value per Unit on the Business Day on which Units are to be issued.

5.05 A subscription fee may be added to the price of the Units as specified in the relevant Supplemental Declaration of Trust and may be retained by the Trustee for its absolute use or benefit and shall not form part of the Deposited Property of the Sub-fund. The Trustee may at its sole discretion waive such fees or differentiate between applicants as to the amount of such fee as may be set out in the Supplemental Declaration of Trust or any other accompanying documentation.

5.06 Any person applying for Units shall complete an application in such form as the Trustee may from time to time prescribe and shall comply with such conditions as may be prescribed by the Trustee. All applications must be received by the Trustee

at its place of business (or as the Trustee directs) prior to such time as the Trustee may determine. The Trustee shall have absolute discretion to accept or reject in whole or in part any application for Units. Fractions of Units (not calculated to more than three decimal places) may be issued at the discretion of the Trustee.

5.07 Persons wishing to subscribe for Units shall ensure receipt by the Trustees of the price payable therefor in accordance with this Declaration of Trust and with such terms and conditions, subject to this Declaration of Trust, as the Trustees may from time to time determine.

5.08 Applications for Units shall only be accepted in the base currency of the relevant Sub-fund. Monies subscribed in a currency other than the base currency of the relevant Sub-fund will be converted by the Trustee to the denominated currency of the relevant Sub-fund at what the Trustee considers to be the appropriate exchange rate and such subscription shall be deemed to be in the amount so converted. Monies so paid shall be held by the Trustee as part of the assets of the relevant Sub-fund.

5.09 The Trustee may from time to time make arrangements for the issue of Units to any person by way of exchange for Investments held by him upon such terms as the Trustee may think fit but subject to and in accordance with the following provisions:

- (i) no Units shall be issued until the Investments shall have been vested in the Trustee or the appointed depositary;
- (ii) subject to the foregoing any such exchange shall be effected on the terms (including provision for paying out of the assets of the relevant Sub-fund the expenses of the exchange, and a subscription fee as specified in Clause 5.05) that the number of Units to be issued shall be that number (from the calculation of which, at the discretion of the Trustee, fractions of a Unit may be excluded) which would have been issued for cash at the current price against payment of a sum equal to the value of the Investments transferred less such sum as the Trustee may consider represents any fiscal or other expenses as aforesaid to be paid out of the assets of the relevant Sub-fund in connection with the vesting of the Investments;
- (iii) the Investments to be transferred to the Trust for the account of the relevant Sub-fund shall be valued on such basis as the Trustee may decide so long as such value does not exceed the highest amount that would be obtained on the

date of the exchange by applying the method of calculating the value of Investments as set out in Clause 11.00;

- (iv) there may be paid to the incoming Unitholder out of the assets of the relevant Sub-fund a sum in cash equal to the value at the current price of any fraction of a Unit excluded from the calculation aforesaid; and
- (v) the Trustee shall be satisfied that the terms of such exchange shall not be such as are likely to result in any prejudice to the existing Unitholders.

5.10 All reasonable fees, expenses and Disbursements of or incurred by the Trustee in connection with the ongoing administration and operation of each Sub-fund shall be borne by and payable out of the relevant Sub-fund (where such costs have not otherwise already been discharged) including (but not limited to):

- (a) auditors' and accountants' fees;
- (b) lawyers' or notary fees,
- (c) valuation agent's fees;
- (d) the fees of any fund manager, depositary, administrator, management company, prime broker, transfer agent or other third party service provider appointed in respect of a Sub-fund if disclosed in the relevant Supplemental Declaration of Trust;
- (e) property management or letting fees;
- (f) enhancement or development expenditure;
- (g) maintenance and repair charges;
- (h) merchant banking, stockbroking or corporate finance fees;
- (i) interest on borrowings;
- (j) foreign exchange fees;
- (k) fire insurance, life insurance and health insurance premiums and expenses and any other insurance premia;

- (l) stamp duties and other taxes and duties imposed by any fiscal authority;
- (m) costs of preparation, translation and distribution of all prospectuses, reports, certificates, confirmations of purchase of Units and notices to Unitholders;
- (n) expenses of Unitholders' meetings;
- (o) any other expenses incurred in connection with the issue or redemption of Units in the Trust or Sub-fund or other expenses incurred in connection with the acquisition or disposal of the assets of the Trust or Sub-fund;
- (p) the cost of preparing, printing and/or filing this Declaration of Trust and all other documents relating to the Trust or to the relevant Sub-fund including annual, semi-annual and extraordinary reports with all authorities having jurisdiction over the Trust or any of the Sub-funds or the offer of Units of the relevant Sub-fund and the cost of delivering any of the foregoing to the Unitholders;
- (q) the costs of publication of notices in local newspapers where required by the Trustee in its absolute discretion; and
- (r) the total costs of any amalgamation or reconstruction of any Sub-fund;

in each case plus any applicable value added tax or any other ancillary duties or charges of whatsoever nature.

5.11 All stamp duty payable upon this Declaration of Trust or upon the issue of Units shall be payable out of the assets of the relevant Sub-fund or Sub-funds.

6.00 **PERMITTED INVESTMENTS**

The Deposited Property of a Sub-fund shall be invested and reinvested by the Trustee in a manner compatible with the rules, restrictions and practice of Irish pensions law and tax law and subject to the investment objectives, policies and restrictions which are set out in the Supplemental Declaration of Trust of the relevant Sub-fund.

7.00 **TRUSTS OF THE DEPOSITED PROPERTY**

7.01 The Trustee shall be responsible for the safekeeping of the Deposited Property in accordance with the provisions of this Declaration of Trust and shall stand possessed of the Deposited Property upon trust for the Unitholders in proportion to the number of Units held by them

respectively in the relevant Sub-fund according and subject to the provisions of this Declaration of Trust. Subject as hereinafter provided, the Trustee shall at all times retain in its own possession or that of its depositaries, nominees or agents in safe custody all the Investments and cash and all documents of title or value connected therewith actually received by the Trustee or its depositaries, nominees or agents and shall be responsible for the safe custody thereof.

7.02 The Deposited Property shall be divided and held according to the assets and liabilities represented by the relevant Sub-fund and no Unit shall confer any interest or share in any particular part of the Deposited Property.

8.0 **DEALINGS WITH THE DEPOSITED PROPERTY AND BORROWING POWERS**

8.01 All cash and other property which ought in accordance with the provisions of this Declaration of Trust form part of the Deposited Property shall be paid or transferred to the Trustee, and shall be applied in the acquisition by the Trustee of Investments at such times and in such manner as the Trustee shall determine. Any part of the Deposited Property may during such time as the Trustee thinks fit be retained as an investment in any currency or currencies in cash or on current or deposit account or in certificates of deposit or other banking instrument issued by any bank or financial institution or local authority or building society. Any bank, financial institution, local authority or building society to which any monies are paid by the Trustee, which are accepted as an Investment, shall not while it holds such monies be a sub-custodian, nominee, agent or delegate of the Trustee for such purposes and the Trustee shall not be liable for the acts or omissions of or any loss directly or indirectly caused by any such bank, financial institution, local authority or building society.

8.02 The Investments and all rights which may appertain to the Trustee in respect of any Investment shall be dealt with by the Trustee which shall have full power to direct any dealing with or disposition of the Investments or any part thereof as if it were beneficial owner of the Investments.

8.03 The Trustee shall have the following powers subject always to the powers and provisions of this Declaration of Trust and in particular to the provisions of Clause 6.00 of this Declaration of Trust:

- (a) to retain all or any part of the Deposited Property in such investments and for such time as it considers appropriate;
- (b) to sell, call in, and convert into money any part of the Deposited Property not already in the form of money, and to vary and transpose Investments; and

- (c) to maintain, develop or improve any Deposited Property or turn to account any Deposited Property by way of letting, leasing or otherwise entering into contracts and arrangements of all kinds with builders, tenants and others.
- 8.04 The Trustee shall have power with the approval of the Unitholders from time to time to borrow on behalf of a Sub-fund, subject only to such restrictions as may be set out in the relevant Supplemental Declaration of Trust and in accordance with the investment objectives and policy set out therein, from bankers or any other party as it sees fit, and to secure such borrowings by giving guarantees and by pledging, mortgaging, assigning or charging all or part of the Deposited Property of such Sub-fund. The Trustee shall also have the power to acquire foreign currency by means of a back-to-back loan and such back-to-back loan shall not count as borrowing or leverage for the purposes of this sub-Clause.
- 8.05 The Trustee may at any time determine that any cash of a Sub-fund which cannot conveniently be applied or dealt with as herein provided be returned to the relevant Unitholders and thereupon the Trustee shall distribute the same among the Unitholders in proportion to the number of Units held by them respectively.
- 8.06 The Trustee shall without delay forward to the Unitholders (if the Trustee in its sole discretion deems it necessary so to do) all notices of meetings, reports, circulars and other communications received by it or its nominees as holder of any Investments. The Trustee shall not incur any liability hereunder if it exercises its discretion to forward any notices, reports or circulars to the Unitholders as aforesaid.
- 8.07 Except as otherwise expressly provided, all rights of voting conferred by any of the Deposited Property shall be exercised by the Trustee, and the Trustee may refrain at its own discretion from so acting and no Unitholder shall have any right to interfere or complain about the exercise or non-exercise of a vote or votes. The phrase "rights of voting" or the word "vote" used in this Clause shall be deemed to include not only a vote at a meeting but any consent to or approval of any arrangement, scheme or resolution or any alteration in or abandonment of any rights attaching to any part of the Deposited Property and the rights to requisition or join in a requisition or to circulate any statement.
- 8.08 Pursuant to this Clause the Trustee may appropriate and set aside cash or other property of a Sub-fund approved and acceptable to the Trustee sufficient to provide for paying up such Investments of the relevant Sub-fund as are described above in full. The cash or other property so appropriated shall form part of the Deposited Property of the relevant Sub-fund.
- 8.09 Notwithstanding the other provisions of this Declaration of Trust:

- (i) the Trustee may, subject always to the powers and provisions of this Declaration of Trust and in particular to the provisions of Clause 6.00 of this Declaration of Trust, instruct brokers or other agents for the account of a particular Sub-fund to effect acquisitions and disposals of Investments on behalf of the relevant Sub-fund;
- (ii) each Sub-fund shall be responsible for its own costs of purchase and sale (including but not limited to Duties and Charges and Disbursements) of any Investments purchased or sold by the Trustee on behalf of such Sub-fund. For the avoidance of doubt there shall be no recourse to the assets of the Trustee in respect of such costs.

9.00 **DEALINGS BY THE TRUSTEE**

The Trustee or its officers, directors, executives or employees shall not deal with the assets of any Sub-fund for its or their own account unless prior written consent is received from the Unitholder of the relevant Sub-fund.

10.00 **REGISTRATION OF UNITHOLDING**

- 10.01 All unitholdings of a Sub-fund shall be registered, valued and accounted for in the records of the relevant Pension Investors in such format as may from time to time be determined by the provider, administrator or trustee of the relevant Pension Investor.
- 10.02 The registration of unitholding of each Sub-fund shall be conclusive evidence as to the persons respectively entitled to the Units entered therein and no notice, whether actual or constructive, of any trust express or implied or constructive shall be binding on the Trustee. No certificates in respect of unitholding will issue to any Unitholder.

11.00 **DETERMINATION OF NET ASSET VALUE**

- 11.01 The Net Asset Value of each Sub-fund and the Net Asset Value per Unit of each Sub-fund shall be calculated in respect of each Accounting Date. The Net Asset Value of a Sub-fund shall be determined by ascertaining the value of the assets of the Sub-fund pursuant to the valuation policy as determined in respect of every Sub-fund. The Net Asset Value per Unit of each Sub-fund shall be determined by dividing the Net Asset Value of each Sub-fund by the number of Units in issue or deemed to be in issue and rounding the result to such amount as the Trustee may determine.
- 11.02 The value of the Investments on the Accounting Date of each Sub-fund may be calculated as follows:

- (i) Real property shall be valued by obtaining an open-market valuation from an independent valuer in respect of each property or by such other method as the Trustee deems appropriate. Any valuation report will identify the property and state:
- sale (capital) value of the property
 - open market rental value of the property
 - aggregated rental income
 - extent to which it is occupied
 - for developing properties, the extent to which any allowance has been made in the valuation for any agreed sale or guaranteed rental when the development is completed;
- (ii) certificates of deposit acquired at their normal value and other deposits shall be valued at their principal amount plus accrued interest from the date of acquisition;
- (iii) certificates of deposit acquired at a discount or premium shall be valued in accordance with the normal dealing practice therein;
- (iv) the value of any 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 Trustee is of the opinion that the same is unlikely to be paid and received in full in which case the value thereof shall be arrived at after making such deduction as the Trustee may consider appropriate in such case to reflect the true value thereof;
- (v) Investments listed on a stock exchange or traded on any other organised market shall be valued at the last available price provided the value of any Investment listed on a stock exchange or organised market, but acquired or traded at a premium or at a discount outside or off the relevant stock exchange on an over-the-counter market, shall be valued taking into account the level of premium or discount as at the date of valuation of the Investment;
- (vi) Investments not listed on a stock exchange or traded on an organised market shall be valued at their last available bid market price; if there is no such market price, or if in the determination of the Trustee such market price is not representative of the fair market value thereof, such Investments shall be valued prudently and in good faith by the Trustee on the basis of their cost or other method decided by the Trustee; and
- (vii) cash and other liquid assets shall be valued at their face value with interest accrued

to the end of the relevant Valuation Day.

- 11.03 In addition, the Net Asset Value of a Sub-fund and the Net Asset Value per Unit of a Sub-fund shall be estimated on each Business Day on which either a subsequent issue of Units shall be made in accordance with Clause 5.04 or a redemption of Units shall be made in accordance with Clauses 13.01 or 14.01. The valuation will be estimated by the Trustee in such manner and using such methods as it deems appropriate and not necessarily in accordance with Clause 11.02. Notwithstanding that the estimate may not accurately reflect the true value of the assets and liabilities of the Sub-fund, the estimate shall be final and the valuation will not subsequently be readjusted on the Accounting Date.
- 11.04 When a valuation is for the purpose of determining the issue price of Units, the value of any real property may be increased at the discretion of the Trustee by an amount which the Trustee considers appropriate to cover all incidental costs (including, but not limited to, stamp duty, agents fees, legal fees, fire insurance, health or life insurance premiums and expenses and Duties and Charges) which would be incurred if the property were to be acquired for the Sub-fund.
- 11.05 When a valuation is for the purposes of determining the redemption price of Units, the value of any real property may be reduced at the discretion of the Trustee by an amount which the Trustee considers appropriate to cover all incidental costs (including, but not limited to, stamp duty, agents fees, legal fees and Duties and Charges) which would be incurred if such real property were to be disposed of from the Sub-fund.
- 11.06 Notwithstanding the methods of valuation in this Clause 11.00, where no method of calculation is stated or practicable or adequate, the Trustee shall be entitled in good faith to use such valuation method as the Trustee considers fair in the circumstances.
- 11.07 The assets of each Sub-fund shall be deemed to include:
- (i) the Deposited Property;
 - (ii) all property;
 - (iii) all cash on hand, on deposit or on call including any interest accrued thereon and any dividends or other distributions accrued but not yet received;
 - (iv) all bonds and other securities;
 - (v) all bills, demand notes, promissory notes and accounts receivable;

- (vi) all interest accrued on any interest-bearing securities unless the same is included in the principal value of such security;
- (vii) all Investments and any other assets attributable to the Sub-fund including prepaid expenses as valued and defined from time to time by the Trustee.

11.08 The liabilities attributable to each Sub-fund shall be deemed to include:

- (i) all such fees, charges, costs, taxes, duties and expenses as are set out in Clause 5.10;
- (ii) all other liabilities (including such amount in respect of contingent liabilities as the Trustee shall determine) of the Sub-fund of whatsoever kind and nature including, without limitation, at the discretion of the Trustee, a provision for Duties and Charges.

11.09 The Net Asset Value of each Sub-fund shall be calculated in the currency in which such Sub-fund is denominated.

11.10 Every Unit of a Sub-fund agreed to be issued shall be deemed to be in issue at the close of business on the Valuation Day on which the application was effected and the relevant Sub-fund shall be deemed to include not only cash in the hands of the Trustee but also the amount of any cash to be received in respect of Units agreed to be issued after deducting therefrom (in the case of Units agreed to be issued for cash) or providing thereout the Duties and Charges, provided that the Trustee shall be entitled to cancel any Units for which payment has not been received within such period as the Trustee shall in its absolute discretion determine.

11.11 Where Investments in a Sub-fund have been agreed to be purchased or sold but such purchase or sale has not been completed such Investments shall be included or excluded (as the case may be) at the absolute discretion of the Trustee and on such terms as the Trustee shall determine, and the gross purchase or net sale consideration excluded or included as the case may require, as if such purchase or sale had been duly completed.

11.12 Any value expressed otherwise than in currency in which the Sub-fund is denominated (the "Denominated Currency") and any borrowing other than in the Denominated Currency shall be converted into the Denominated Currency at the rate (whether official or otherwise) which the Trustee deems appropriate in the circumstances having regard (inter alia) to any premium or discount which may be relevant and to costs of exchange.

11.13 The Trustee shall not be liable to account to any Unitholder or otherwise for any payment made or suffered by the Trustee in good faith to any duly empowered fiscal authority of any jurisdiction for Duties and Charges or other taxes or charges or other assessments in any way arising out of or relating to any transaction of whatsoever nature pursuant to the provisions of this Declaration of Trust, notwithstanding such payments ought not to be or need not have been made or suffered.

12.00 **TRANSFER OF UNITS**

12.01 No sale, assignment, transfer, exchange, pledge, encumbrance or other disposition of a Unitholder's holding in a Sub-fund shall be valid or effective without the prior written consent of the Trustee. Any transfer of legal or beneficial ownership in violation of these provisions shall not be valid or effective.

12.02 Every instrument of transfer must be signed by the transferor and the transferor shall be deemed to remain the holder of the Units intended to be transferred until the instrument of transfer has been signed by the transferee and the purchase price or other consideration paid.

12.06 No transfer or purported transfer of a Unit other than a transfer made in accordance with this Clause shall entitle the transferee to be registered in respect thereof nor shall any notice of such transfer or purported transfer (other than as aforesaid) be entered to the account of the transferee.

12.07 No Units may be transferred to, or for the benefit of (i) any person in breach of any law or requirement of any country or governmental authority; or (ii) any person or persons in circumstances which in the opinion of the Trustee might result in the Sub-Fund or the Trust incurring any liability for taxation or suffering any legal, pecuniary, regulatory or material administrative disadvantage which the relevant Sub-Fund or the Trust might not otherwise have incurred or suffered; or (iii) any person who is not a Pension Investor; or (iv) any person in circumstances which in the opinion of the Trustee would result in the Sub-fund or the Trust being an AIF to which the Regulations apply.

13.00 **CANCELLATION OF UNITS AND REDUCTION OF TRUST AND SUB-FUNDS**

13.01 The Trustee shall have the exclusive right on any Business Day to effect reductions of any one or more of its Sub-funds where necessary. Before exercising its right it shall be the duty of the Trustee to ensure that the relevant Sub-fund includes (or will upon the completion of the sale of Investments agreed to be sold include) cash at least sufficient to pay the amount payable to the relevant Unitholders upon such reduction.

- 13.02 In respect of any such cancellation of Units, the Trustee shall be entitled to receive out of the relevant Sub-fund an amount per Unit equal to the Net Asset Value per Unit for onwards payment to the relevant Unitholders.
- 13.03 Upon such payment and surrender the Units in question shall be deemed to be cancelled and withdrawn from issue.
- 13.04 If it shall come to the notice of the Trustee or if the Trustee shall have reason to believe that any Units are owned directly or beneficially by (i) any person in breach of any law or requirement of any country or governmental authority, or (ii) any person or persons in circumstances which in the opinion of the Trustee might result in the Trust incurring any liability for taxation or suffering any legal, pecuniary, regulatory or material administrative disadvantage which the Trust or Sub-fund might not otherwise have incurred or suffered, or (iii) a person who is not a Pension Investor, or (iv) any person in circumstances which in the opinion of the Trustee would result in the Sub-fund or the Trust being an AIF to which the Regulations apply, the Trustee shall be entitled to give notice (in such form as the Trustee deems appropriate) to such person requiring him to request in writing the repurchase of such Units. If any person upon whom such notice is served as aforesaid does not within 30 days after such notice has been served request in writing the Trustee to repurchase such Units, he shall be deemed forthwith upon the expiration of the said 30 days to have so requested the repurchase of all his Units the subject of such notice on the terms and subject to the provisions of Clause 14.00 below.

14.00 **REDEMPTION OF UNITS FROM UNITHOLDERS**

- 14.01 A Unitholder shall not be entitled to require the redemption of some or all of his/her Units during the Term of a Sub-fund. The Trustee may in its absolute discretion permit such a request on a Business Day upon such prior notice as the Trustee may from time to time determine provided that the Trustee is satisfied that there is sufficient liquidity in the relevant Sub-fund to permit such a redemption or that sufficient liquidity can be generated. The redemption price payable in respect of each Unit shall be equal to the Net Asset Value per Unit of the Sub-fund.
- 14.02 On surrender of part only of the Units comprised in a holding the Unitholder shall pay to the Trustee any stamp duty and all or any other governmental taxes and charges (if any) arising.

14.03 The redemption price shall be payable to the Unitholder, or in the case of joint Unitholders, to the joint Unitholder who actually requested the redemption, within a reasonable period following the sale or disposal of sufficient assets of the Sub-fund.

14.05 The Trustee may with the consent of the relevant Unitholders satisfy any request for redemption of Units of a Sub-fund by the transfer in specie to those Unitholders of the relevant Sub-fund of assets of the relevant Sub-fund having a value equal to the Redemption Price for the Units redeemed as if the redemption proceeds were paid in cash provided that any Unitholder requesting redemption shall be entitled to request the sale of any asset or assets proposed to be distributed in specie and the distribution to such Unitholder of the cash proceeds of such sale, the costs of which shall be borne by the relevant Unitholder. The nature and type of assets to be transferred in specie to each Unitholder shall be agreed between the Trustee and the relevant Unitholder provided that the in specie redemption is not prejudicial to the interests of the remaining Unitholders in the relevant Sub-fund.

15.00 **DISTRIBUTIONS**

15.01 The Trustee at its sole discretion may from time to time and in respect of some (but not all) of its permitted Investments acquired on behalf of one or more Sub-funds make provision for the income from such permitted Investments to be paid directly to the Unitholders. In such cases where any such arrangements are in place the following provisions of Clause 15.00 will not apply to such income. In all other cases distributions shall be made as set out below.

15.02 The amount available for distribution to Unitholders shall be (i) the net income received by the Trustee (whether in the form of dividends, interest or otherwise) in relation to the relevant Sub-fund, and (ii) if considered necessary in order to maintain a reasonable level of dividend distributions, realised and unrealised capital gains less realised and unrealised capital losses made on the disposal/valuation of assets arising from the Net Asset Value of the relevant Sub-fund subject to such adjustments as may be appropriate under the following headings:

- (a) addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases cum or ex dividend;
- (b) addition of a sum representing any interest or dividends or other income accrued but not received by the Trustee ;
- (c) addition of a sum representing the actual repayment of tax resulting from any claims in respect of income tax relief or double taxation relief or otherwise;

- (d) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income of that proportion of the Net Asset Value of the Trust attributable to the relevant Sub-fund;
- (e) deduction of a sum representing participation in income paid upon the cancellation of Units of the relevant Sub-fund period; and
- (f) deduction of such amount as the Trustee or its delegate may certify necessary in respect of any expenses, remunerations or other payments (including without limitation, all Disbursements) accrued and properly payable out of the income or capital of that proportion of the Net Asset Value of the Trust attributable to the relevant Sub-fund.

Provided always that the Trustee shall not be responsible for any error in any estimates of income tax repayments or double taxation relief expected to be obtained or of any sums payable by way of taxation or of income receivable, and if the same shall not prove in all respects correct they shall ensure that any consequent deficiency or surplus shall be adjusted in which a further or final settlement is made of such tax repayment or liability or claim to relief or the amount of any such estimated income receivable is determined, and no adjustment shall be made to any distribution previously made.

- 15.03 The amount, if any, to be distributed shall be determined by the Trustee in accordance with the rules, restrictions and practice of Irish pensions law and tax law (subject as hereinafter provided).
- 15.04 On the date of distribution the amount of cash required to effect the distribution shall be transferred from the Deposited Property in respect of the relevant Sub-fund to an account established under the terms and provisions of a custodial account opened on behalf of the Pension Investor ("Custodial Account"). The amount standing to the credit of the Custodial Account shall not for any of the purposes of this Declaration of Trust be treated as part of the Deposited Property but shall be held by the Trustee upon trust to distribute the same as herein provided.
- 15.05 Should the Trustee decide to make a distribution such distribution shall be distributed to the persons who were registered as Unitholders of the relevant Sub-fund as of the date of distribution.
- 15.06 The Trustee shall decide whether a Distribution shall be made or not.

15.07 It shall be the duty of the Trustee to ensure that the Custodial Account includes or will, upon the completion of the sale of Investments agreed to be sold, include cash at least sufficient to pay the amount so payable to a Unitholder or former Unitholder of the relevant Sub-fund.

15.08 Unless otherwise requested by the payee, any moneys payable by the Trustee to a Unitholder or former Unitholder of the relevant Sub-fund in respect of any Unit of the relevant Sub-fund under the provisions of this Declaration of Trust shall be paid in the denominated currency of the relevant Sub-fund by bank transfer at the expense of the Unitholder. Every such bank transfer shall be made payable to the order of such Unitholder or, in the case of joint Unitholders, made payable to the order of one of the Unitholder on the at the risk of such Unitholder or joint Unitholders or in the event of a Unitholder having or in the case of joint Unitholders all of them having given a mandate in writing to the Trustee in such form as the Trustee shall approve for payment to the bankers or other agent or nominee of the Unitholder or Unitholders then the same shall be dealt with in accordance with the instructions in such mandate contained.

16.00 **DUTIES, LIABILITIES, INDEMNITIES, RIGHTS AND POWERS OF TRUSTEE**

16.01 The Trustee must exercise due care and diligence in the discharge of its duties. The Trustee must exercise care and diligence in choosing and appointing a third party as a depository, sub-depository or safekeeping agent so as to ensure that such third party has and maintains the expertise, competence, regulatory status and standing appropriate to discharge the responsibilities concerned. The Trustee must maintain an appropriate level of supervision over the third party. Without prejudice to any indemnity allowed by law or elsewhere herein or in any Supplemental Declaration of Trust given to the Trustee, the following provisions in Clauses 16.02 to 16.14 shall apply.

16.02 The Trustee or any agent of the Trustee shall not be responsible for the authenticity of any signature on or any seal affixed to any endorsement or to any transfer or form of application, endorsement or other document affecting the title to or transmission of Units or be in any way liable to make good any loss incurred by any person for any forged or unauthorised signature on or a seal affixed to such endorsement, transfer or other document or for acting on or giving effect to any such forged or unauthorised signature or seal.

16.03 Subject and without prejudice to the right of the Trustee or any Unitholder to apply in any particular case to a court of competent jurisdiction for determination of their respective rights and liabilities hereunder, the Trustee shall have full power to determine all questions and

doubts arising in relation to any of the provisions hereof and every such determination whether made upon a question actually raised or implied in the acts or proceedings of the Trustee shall be conclusive and shall bind the Trustee and all persons interested under this Declaration of Trust.

- 16.04 Notwithstanding the provisions of Clause 7.01, but subject to Clause 16.01, hereof the Trustee shall be entitled to procure any agent, securities depository, clearing system, sub-custodian or nominee of the Trustee ("nominee") to be registered as proprietor of any investment held upon the trusts of this Declaration of Trust and to receive and make on behalf of the Trustee any payments which otherwise would have been received or made by the Trustee and any reference in this Declaration of Trust to the Trustee in relation to the vesting, registration or holding in its name of Investments or to its rights, obligations or discretions hereunder as the registered proprietors of Investments or to the receiving or making of payments by the Trustee shall, where the context admits, be deemed also to be a reference to such nominee as nominee of the Trustee in relation to the aforesaid matters or in relation to any payment received or made or which ought to have been received or made by the Trustee.
- 16.05 The Trustee shall not be under any obligation to appear in, prosecute or defend any action or suit in respect of the provisions hereof or in respect of the Deposited Property or any part thereof or take part in or consent to any corporate or shareholders' or stockholders' action which in its opinion might involve it in any expense or liability but may at its absolute discretion agree to prosecute or defend any such action or suit provided that the Trustee shall be indemnified and held harmless out of the Deposited Property against any cost, liability or expense which it may suffer or incur as a result of taking such action in terms satisfactory to the Trustee.
- 16.06 (i) The Trustee shall have no liability for the purchase, selection or acceptance of any Investment nor for the sale, exchange or alteration of any Investments.
- (ii) The Trustee shall have no liability for any loss or damage arising from the failure of any counterparty to deliver Investments or cash to the Trustee or its nominee, or to return such Investments or cash as may have been delivered by the Trustee or its nominee to such counterparty, such failure to include the delivery of forged or stolen Investments or cash.
- 16.07 The Trustee shall not be liable to account to any Unitholder or otherwise for any payment made or suffered by the Trustee in good faith to any duly empowered fiscal authority of Ireland or elsewhere for taxes or other charges in any way arising out of or relating to any transaction of whatsoever nature under this Declaration of Trust notwithstanding that any such payment ought not to be or need not have been made or suffered.

- 16.08 The Trustee shall as regards all the powers and discretions vested in it by this Declaration of Trust have absolute and uncontrolled discretion as to the exercise or non-exercise thereof and in the absence of fraud, negligence, bad faith or wilful default on the part of the Trustee, the Trustee, subject to Clause 16.01, shall not be in any way responsible for any loss, claim, expense, costs or damages that may result from the exercise or non-exercise thereof.
- 16.09 The Trustee may act upon the advice of or information obtained from lawyers, accountants or other experts and it may also act upon statements of or information or advice obtained from any bankers, accountants, brokers, lawyers, agents or other persons acting hereunder as agent or adviser of the Trustee and the Trustee, in selecting an adviser or in acting upon such statements, information or advice, shall not be responsible for the correctness of any such statements, information or advice or for any loss occasioned by it so acting.
- 16.10 The Trustee shall in no way be liable to make any payment hereunder to any Unitholder or to any third party except out of funds held by or paid to it for that purpose under the provisions hereof.
- 16.11 The Trustee shall (subject as hereinafter provided) be entitled to destroy all statements and other records and documents relating to the Trust or any of its Sub-funds at any time after the expiration of six years from the termination of the Trust or, in the case of a Sub-fund, at any time after the expiration of six years from the termination of that Sub-fund. The Trustee shall be under no liability whatsoever in consequence thereof and it shall conclusively be presumed in favour of the Trustee that every document so destroyed was a valid document duly and properly cancelled, provided always that:
- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without actual notice of any claim (regardless of the parties thereto) to which the document might be relevant;
 - (b) nothing in this sub-Clause shall be construed as imposing upon the Trustee any liability in respect of the destruction of any documents earlier than as aforesaid or in any case where the conditions of sub-paragraph (a) above are not fulfilled; and
 - (c) reference herein to the destruction of any document includes reference to the disposal thereof in any manner.
- 16.12 If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Declaration of Trust, the Trustee shall not be under any liability therefor or thereby and shall not incur any liability by reason of any error of law or any matter or thing done or

suffered to be done or omitted to be done by it in good faith hereunder and in particular the Trustee shall not be liable for any loss or damage to the Deposited Property or for any failure to fulfill its duties if such loss or failure shall be directly or indirectly caused by, or due to, war, civil commotion, rebellion, storm, tempest, fire, act of God, strike, lock-out, power failure, computer failure or error, breakdown or delay in communications, or the act of any government or other competent authority.

16.13 The Trustee shall without prejudice to any indemnity allowed by law or elsewhere, and subject to the provisions of Clause 16.01, be indemnified out of the Deposited Property of the relevant Sub-fund in respect of all liabilities and expenses properly incurred by it in the execution or purported execution of the trusts hereof or of any powers, duties, authorities or discretions vested in it pursuant to this Declaration of Trust or the terms of its appointment and against all actions, proceedings, costs, claims, damages, expenses and demands in respect of any matter or thing done or omitted or suffered in any way relating to each relevant Sub-fund (other than by reason of the Trustee's fraud, negligence, bad faith or wilful default).

16.14 The Trustee shall be entitled to refuse to effect any Investment, realisation or other transaction of whatsoever nature on behalf of the Trust if, in the reasonable opinion of the Trustee:

- (i) such Investment, realisation or other transaction would be in conflict with this Declaration of Trust or any offer document for Units or would not be compatible with the rules, restrictions and practice of Irish pensions law and tax law or would not be in accordance with the investment objectives, policies and restrictions which are set out in the Supplemental Declaration of Trust of the relevant Sub-fund would be unlawful or would violate the requirements of any government body or any other body with whose requirements (whether legally binding or not) financial institutions in general or the Trustee in particular may be required by law, custom or practice to conform provided that the Trustee shall not be under any obligation to ensure that any instruction received by it would not contravene any of the laws, authorities or documents referred to; or
- (ii) there are reasonable grounds for estimating that liabilities to be incurred in the course of such Investment, realisation or other transaction may not be adequately covered by the Investments or cash of the Trust held for the time being by or on behalf of the Trustee; or
- (iii) personal liability may be incurred by the Trustee pursuant to such Investment, realisation or other transaction.

17.00 **OTHER TRUSTS**

Nothing herein contained shall be construed to prevent the Trustee from establishing or acting as Trustee for trusts separate and distinct from the Trust.

18.00 **REMUNERATION OF TRUSTEE**

18.01 The Trustee shall receive by way of remuneration for its services a fee out of the assets of the relevant Sub-fund (plus value added tax, if any) as specified in the Supplemental Declaration of Trust or other documentation governing the Sub-fund.

18.02 The Trustee shall be entitled to be repaid all Disbursements.

18.03 Remuneration and all Disbursements shall be retained by the Trustee out of the Deposited Property of the relevant Sub-fund. Such repayment of Disbursements shall be in addition to any sums the Trustee may be entitled to receive or retain pursuant to any other provision hereof.

19.00 **DEALINGS AT REQUEST OF UNITHOLDERS**

Notwithstanding anything herein contained and the investment policy or strategy of any Sub-fund, and without prejudice to the absolute discretion of the Trustee to effect any transaction or dealing, the Trustee shall not be required to effect any transaction or dealing with any part of the investments or of the Deposited Property on behalf or for the benefit or at the request of any Unitholder.

20.00 **RETIREMENT OF TRUSTEE**

The Trustee shall not be entitled to retire voluntarily except upon the appointment of a new Trustee or the termination of the Trust or Sub-fund, including termination of the Trust by the Trustee pursuant to Clause 21.00. In the event of the Trustee desiring to retire, the Trustee may by deed supplemental hereto appoint any duly qualified corporation to be the Trustee in the place of the retiring Trustee.

21.00 **DURATION AND TERMINATION OF TRUST AND SUB-FUNDS**

21.01 The Trust or any of its Sub-funds may be terminated immediately by the Trustee by notice in writing as hereinafter provided upon the occurrence of any of the following events, namely:

- (a) if the Trustee shall go into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustee) or ceases business or becomes (in the reasonable judgment of the Trustee) subject to the de facto control of some corporation or person of whom the Trustee does not reasonably approve or if a receiver is appointed in respect of any of the assets of the Trustee or if an examiner is appointed to the Trustee pursuant to the Companies (Amendment) Act, 1990;
- (b) if any law shall be passed which renders it illegal to continue the Trust or any of its Sub-funds; or
- (c) if in the reasonable opinion of the Trustee it is impracticable or inadvisable to continue the Trust or any of the Sub-funds.

The decision of the Trustee in any of the events specified in this Clause 22.01 shall subject as provided in this Clause 22.00 be final and binding upon all the parties concerned and the Trustee shall, in the absence of fraud, negligence, bad faith or wilful default, be under no liability on account of any failure to terminate the Trust of any of its Sub-funds pursuant to this Clause 22.00 or otherwise.

21.02 The Trust shall terminate upon the expiry of the Term of the Trust.

21.03 A Sub-fund shall terminate upon the expiry of the Term of the Sub-fund.

22.00 **PROVISIONS ON TERMINATION OF TRUST AND SUB-FUNDS**

22.01 On the termination of the Trust or any Sub-fund the Trustee shall procure the sale of all Investments then remaining in the hands of the Trustee as part of the Deposited Property and such sale shall be carried out and completed in such manner and within such period before or after the termination of the Trust or of the Sub-fund as the Trustee thinks desirable.

22.02 The Trustee shall at such time or times as it shall deem convenient and at its entire discretion procure the distribution to the Unitholders pro rata to the number of Units of each Sub-fund held by them respectively all net cash proceeds derived from the realisation of the Investments of the relevant Sub-fund and any cash then forming part of the relevant Sub-fund so far as the same are available for the purpose of such distribution. .

23.00 **NOTICES**

- 23.01 Any notice or other document required to be served upon or sent to a Unitholder shall be given in the case of Unitholders if sent by pre-paid post, facsimile or email (or other electronic means), or left at his address and in the case of joint Unitholders if so sent to or left at the address of one of the Unitholders or if issued or published in such manner as the Trustee shall determine subject to the approval of the Trustee. Any notice sent by post as provided in this Clause shall be deemed to have been duly given 7 Business Day after posting and any notice sent by facsimile or email (or other electronic means) or left as stated in this Clause shall be deemed to have been duly given on receipt of a positive transmission receipt or on the Business Day on which it was so left, only if the notice has been left during usual business hours on such Business Day, and if the notice is left outside usual business hours, it shall be deemed to have been left on the next following Business Day. Evidence that the notice was properly addressed, stamped and put into the post shall be conclusive evidence of posting. Any notice issued or published shall be deemed to have been duly given on the date of such notice's first issue or publication.
- 23.02 Service of a notice or document on any one of several joint Unitholders of a relevant Sub-fund shall be deemed effective service on himself and the other joint Unitholders.
- 23.03 Any notice or document served in accordance with 23.01 shall notwithstanding that such Unitholder be then dead or bankrupt and whether or not the Trustee has notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the Units concerned.
- 23.04 Any notice or other document which is sent by post, facsimile or email (or other electronic means) or left as stated in Clause 23.01 or dispatched by the Trustee in accordance with any Unitholder's instructions shall be so sent, left or dispatched at the risk of such Unitholder.
- 23.05 Any notice or other document required to be served upon or sent to one party to a Supplemental Declaration of Trust by the other party shall be deemed to have been properly served upon or received by that party if delivered or sent by pre-paid post, facsimile or email (or other electronic means) to or left at the other party's address as hereinbefore set out. Any notice sent by post as provided in this Clause shall be deemed to have been duly given 48 hours after posting and any notice sent by facsimile or email (or other electronic means) or left as stated in this Clause shall be deemed to have been duly given on receipt of a positive transmission receipt or on the Business Day on which it was so left, only if the notice has been left during usual business hours on such Business Day, and if the notice is left outside usual business hours, it shall be deemed to have been left on the next following Business

Day. Evidence that the notice was properly addressed, stamped and put into the post shall be conclusive evidence of posting. Any notice issued or published shall be deemed to have been duly given on the date of such notice's first issue or publication.

24.00 **COPIES OF DECLARATION OF TRUST**

A copy of this Declaration of Trust and of any deeds and other documents supplemental hereto shall be at all times during usual business hours obtainable by Unitholders from the Trustee at its registered office in Ireland at a small fee.

25.00 **MODIFICATION OF DECLARATION OF TRUST**

25.01 Where required for by law or for regulatory reasons, the Trustee shall at its absolute discretion be entitled by supplemental deed hereto to modify, alter or add to the provisions of this Declaration of Trust, provided that Unitholders shall be provided with notice of any such amendment as soon as possible and, if possible, where a material change is required, in advance of the change being effected in order to facilitate a redemption or winding up of a relevant Sub-fund, where appropriate.

25.02. In addition to the power of the Trustee to modify, alter or add to this Declaration of Trust pursuant to Clause 25.01, the Trustee shall have the power by supplemental deed hereto to effect any modifications, alterations or additions to the provisions of this Declaration of Trust which do not have a material impact on the right of Unitholders at its absolute discretion provided always that notice shall be afforded to Unitholders of any such modification, alteration or addition in advance of it being effected.

25.03 In all other circumstances than those described in Clauses 25.01 and 25.02, any modifications, alterations or additions to the provisions of this Declaration of Trust shall be by supplemental deed hereto and shall take place only where sanctioned by a resolution of the Unitholders approved by Unitholders holding 75% of the Units of the Unitholders present in person or by proxy at a meeting of the Unitholders. Such meeting shall be called by the Trustee, giving one month's notice.

26.00 **GOVERNING LAW**

This Declaration of Trust shall be governed by and construed in accordance with the laws of Ireland.

IN WITNESS whereof the Trustee has executed this Declaration of Trust the day and year above referred to.

GIVEN under the Common Seal of
INDEPENDENT TRUSTEE COMPANY LIMITED
and delivered as a Deed:

Miriam McDonald

Director

[Signature]

Director/Secretary



**INDEPENDENT TRUSTEE COMPANY LIMITED
(Trustee)**

DECLARATION OF TRUST

THE CUSTODY TRUST