



## OFFERING MEMORANDUM

OCTOBER 2017

PURE VALUE CAPITAL FUND S.C.A., SICAV-SIF

A Luxembourg investment Fund with variable capital (*société d'investissement à capital variable - SICAV*) organised as a specialised investment fund (*fonds d'investissement spécialisé - FIS*) in the legal form of a corporate partnership limited by shares (*société en commandite par actions - SCA*)

**THIS DRAFT OFFERING MEMORANDUM IS A WORKING DOCUMENT, IT DOES NOT CONSTITUTE AN OFFER TO SELL, OR THE SOLICITATION OF AN OFFER TO BUY AN INTEREST IN PURE VALUE CAPITAL FUND S.C.A., SICAV-SIF AND IS FOR DISCUSSION PURPOSES ONLY. PURE VALUE CAPITAL FUND S.C.A., SICAV-SIF IS NOT IN EXISTENCE YET AND AN APPLICATION FOR APPROVAL OF PURE VALUE CAPITAL FUND S.C.A., SICAV-SIF WILL BE SUBMITTED TO THE LUXEMBOURG COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF) AND THE PROPOSED TERMS OF PURE VALUE CAPITAL FUND S.C.A., SICAV-SIF AS SET OUT IN THIS DOCUMENT MAY CHANGE AS A RESULT OF THE REVIEW BY THE CSSF.**

**APPLICATIONS FOR SUBSCRIPTION ARE RESERVED TO WELL-INFORMED INVESTORS WITHIN THE MEANING OF ARTICLE 2 OF THE LAW DATED FEBRUARY 13, 2007 ON SPECIALISED INVESTMENT FUNDS AS AMENDED, WHO, ON THE BASIS OF THIS OFFERING MEMORANDUM, THE ARTICLES OF THE FUND, THE RELEVANT SUBSCRIPTION AGREEMENT OR OTHER DOCUMENTS REFERRED TO IN THE AFOREMENTIONED DOCUMENTS, HAVE MADE THEIR OWN ASSESSMENT OF THE CONDITIONS OF THEIR PARTICIPATION IN THE FUND. ACCORDINGLY, IT IS THE RESPONSIBILITY OF PROSPECTIVE INVESTORS TO DECIDE WHETHER AN INVESTMENT IN THE FUND AND THEIR RIGHTS AND OBLIGATIONS AS SHAREHOLDERS OF THE FUND ARE SUITABLE FOR THEM.**

## IMPORTANT INFORMATION

### Notice

**AN INVESTMENT IN THE FUND (AS DEFINED BELOW) INVOLVES SIGNIFICANT RISKS, INCLUDING RISKS OF NON-ACHIEVEMENT OF TARGET RESULTS OR RETURNS, POSSIBLE DELAYS IN REPAYMENT AND LOSS OF CAPITAL INVESTED. THE FUND DOES NOT GUARANTEE ANY PARTICULAR RATE OF RETURN, ITS PERFORMANCE, THE REPAYMENT OF CAPITAL OR ANY TAX TREATMENT OF ANY DISTRIBUTION MADE BY, OR ANY INVESTMENT IN, THE FUND. PROSPECTIVE INVESTORS SHOULD CAREFULLY CONSIDER WHETHER AN INVESTMENT IN SHARES IS SUITABLE FOR THEM IN LIGHT OF THEIR CIRCUMSTANCES AND FINANCIAL RESOURCES. THEY SHOULD READ THIS OFFERING MEMORANDUM IN ITS ENTIRETY AND SHOULD CONSIDER THE RISKS DESCRIBED AS SET OUT IN THE RELEVANT SECTION OF THIS OFFERING MEMORANDUM.**

**By accepting this Offering Memorandum (the Memorandum) the recipient agrees to be bound by the following:**

This Memorandum is submitted on a confidential basis to Well-Informed Investors who have expressed an interest in making a commitment to subscribe for Shares in Pure Value Capital Fund S.C.A., SICAV-SIF, a Luxembourg investment Fund with variable capital (*société d'investissement à capital variable – SICAV*), organised as an single specialised investment fund (fonds d'investissement spécialisé – FIS) in the form of a corporate partnership limited by shares (*société en commandite par actions – SCA*) in accordance with the provisions of the 2007 Law and the 1915 Law (the Fund). The Fund will be a below threshold AIF and will be internally managed according to Article 3 of the AIFM Law.

The shares (the **Shares**) in Pure Value Capital Fund S.C.A. SICAV-SIF (the **Fund**) are offered solely on the basis of the information contained in this Offering Memorandum (the **Offering Memorandum** or **Memorandum**), and the information contained in the reports referred to therein.

This Memorandum has been prepared solely for the consideration of prospective Well-Informed Investors and is circulated to prospective Well-Informed Investors on a confidential basis solely for the purpose of evaluating an investment in the Fund. The Memorandum is provided for information purposes only and does not purport to be all-inclusive and therefore is not intended to be and must not be taken as sole basis for an investment decision. By accepting this Memorandum and any other information supplied to prospective Investors by the Fund, the recipient agrees to keep confidential the information contained in this Memorandum and such other information provided and to return this Memorandum and all related materials to the Fund if such recipient does not undertake to purchase any of the Shares in the Fund. Neither the recipient nor any of its employees or advisers will use the information for any purpose other than for evaluating an investment in the Fund or divulge such information to any other party and acknowledges that this Memorandum and any other document received may not be photocopied, reproduced or distributed to any other party without the prior written consent of the Fund. The information contained in this Memorandum and any other document referred to herein, may not be provided to persons (other than professional advisors) who are not directly concerned with any prospective Investor's decision in relation to an investment in the Fund.

By accepting this Memorandum, prospective Investors are not to construe the contents of this Memorandum and any other document referred to herein or any prior or subsequent information or communication from the Fund, the Service Providers, or any of their respective officers, members, employees, representatives or agents as financial, legal, accounting, regulatory and tax advice. Prior to investing in Shares of the Fund, prospective Investors should conduct their own investigation and analysis of an investment in the Fund and consult with their own advisors as to financial, legal, accounting, regulatory and tax to determine the consequences of an investment in Shares of the Fund and arrive at an independent evaluation of such an investment, including the applicability of any legal sales or investment restrictions.

Prospective Investors are urged to request any additional information they may consider necessary or desirable in order to make an investment decision. Each prospective Investor is encouraged, prior to the making of its commitment to subscribe for Shares in the Fund, to ask questions to, and receive answers from, the board of directors of the Fund (the **Board**) and to request any additional information in order to verify the accuracy of the information contained in this Memorandum or otherwise. The Shares have not been recommended by any securities commission or regulatory authority of any state or country. Furthermore, the aforementioned authorities have not confirmed the accuracy or determined the adequacy of this Memorandum and any document referred to herein. Any representation to the contrary is a criminal offence.

### **Eligibility of Shareholders**

The Shares may under no circumstances be beneficially or legally held or owned by any person, which is not a "Well-Informed Investor" (*investisseur averti*) which qualifies as such as per article 2 of the law dated 13 February 2007 on specialised investment funds (the **2007 Law**) (each a **Well-Informed Investor**).

There exist three categories of Well-Informed Investors, (i) Institutional Investors, (ii) Professional Investors and (iii) Experienced Investors.

A Well-Informed Investor is an institutional investor, a professional investor or any other investor who:

- (a) has confirmed in writing that it adheres to the status of well-informed investor; and
- (b) either invests a minimum of EUR 125,000 (one hundred twenty five thousand Euro) or its equivalent in another currency in the Fund; or has obtained an assessment certifying its expertise, experience and knowledge in adequately appraising an investment in the Fund made by (i) a credit institution within the meaning of Directive 2006/48/EC, (ii) an investment firm within the meaning of Directive 2004/39/EC, or (iii) a management Fund within the meaning of Directive 2001/107/EC.

The minimum capital investment required per Well-informed Investor in the Fund will be EUR 250,000. The Fund shall never have more than 150 shareholders, which will be assured by its general partner.

The Fund, at its full discretion, will refuse the issue or transfer of Shares, if there is not sufficient evidence that the person to whom the Shares are sold or transferred to is a Well-Informed Investor.

Considering the qualification of a subscriber or a transferee as a Well-Informed Investor, the Fund will have due regard to the applicable laws and regulations or recommendations (if any) of the CSSF. Well-Informed Investors subscribing in their own name, but on behalf of a third party, must certify that such subscriptions are made on behalf of a Well-Informed Investor as aforesaid and the Fund may require at its sole discretion, evidence that the beneficial owner of the Shares is a Well-Informed Investor.

The holding at any time of any Shares in the Fund by a party which is a Restricted Person as set forth in Section 8 may result in the compulsory redemption of such Shares by the Board.

**In addition prospective Investors should review the Articles carefully. In the event of any inconsistency between this Memorandum and the Articles, the Articles shall prevail.**

The Articles, the Service Agreements, the Subscription Agreement and related documentation are described in summary form herein; these descriptions do not purport to be complete and each such summary description is subject to, and qualified in its entirety by reference to, the actual text of the Articles, the Service Agreements, the Subscription Agreement and related documentation, including any amendment thereto.

### **Cautionary note regarding forward-looking statements**

Certain statements contained in this Memorandum are forward-looking statements. These forward-looking statements are based on current expectations, estimates and projections about the markets, in which the Fund will operate, and the beliefs and assumptions of the Fund. Words such as "expects", "assumes", "anticipates", "should", "intends", "plans", "believes", "seeks", "estimates", "forecasts", "projects", variations of such words

and similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in such forward-looking statements. Among the factors that could cause actual results to differ materially are the general economic climate, inflationary trends, competition and the supply of and demand for Investments, interest rate levels, rent levels, the availability of financing, changes in tax and corporate regulations, risk of policy formation and implementation, and other risks associated with the ownership and acquisition of Investments, including changes in the legal or regulatory environment or that operation costs may be greater than anticipated.

Prior to the making of any commitment to subscribe for Shares, prospective Investors should obtain a copy of the Subscription Agreement which contains, *inter alia*, representations on the Fund's requirements in relation to an acceptance of a prospective Investor's Capital Commitment. Moreover prospective Investors should receive a copy of the Articles and latest annual report of the Fund if any, forming an integral part of the Memorandum. Any descriptions or explanations with regard to the Articles, the Service Agreements, the Subscription Agreement and related documentation, including any amendment thereto do not purport to be complete and each such summary description is subject to, and qualified in its entirety by reference to, the current text of the Articles, the Service Agreements, the Subscription Agreement and related documentation, including any amendment thereto.

There will be no public market for the Shares. Investors should therefore be aware that they may be required to bear the financial risk of their investment for a significant period of time. Accordingly, prospective Investors should have the financial ability and willingness to accept the risks in investing in the Fund (including, without limitation, the risk of loss of their entire investment).

The General Partner is responsible for the information contained in this Offering Memorandum. To the best of its knowledge it has taken all reasonable care to ensure that such is the case, the information contained herein is in accordance with the facts and does not omit anything likely to affect the import of such information. The Fund expressly disclaims any and all liability based on such information, errors in such information, or omissions in such information. In particular, no representation or warranty is given as to the accuracy of any financial information contained in this Offering Memorandum or as to the achievement or reasonableness of any forecasts, projections, management targets, prospects or returns. The recipient shall be entitled to rely solely on any representations and warranties made to him by the Fund in any definitive subscription agreement for Shares entered into with the Fund (a Subscription Agreement). Other than as described below, neither any of the Directors nor the Fund has any obligation to update this Memorandum. Under no circumstances should the delivery of this Memorandum, irrespective of when it is made, create an implication that there has been no change in the affairs of the Fund since such date. The Fund reserves the right to modify any of the terms of the offering and the Shares described herein. This Memorandum may be updated and amended by a supplement and where such supplement is prepared this Memorandum will be read and construed with such supplement.

No person has been authorised to give any information or to make any representations, other than those contained in this Memorandum and in the documents referred to herein in connection with the offer made hereby, and, if given or made, such information or representation must not be relied upon as having been authorised by the Fund, and any Service Provider.

**Any translation of this Memorandum, the Articles, the Subscription Agreement, the Service Agreements or any other document referred to hereunder into any language other than their original language, will be made for convenience purposes only upon request of the relevant Investors. In case of any discrepancy between any version in its original language and any other language version of above-mentioned documents, the relevant original version will prevail.**

### **Interpretation**

All references in this Offering Memorandum to time are to Luxembourg time, unless otherwise stated. In this Offering Memorandum, all references to "€", "EUR" or "Euro" are to the currency introduced at the start of the third stage of the European economic and monetary union, and as defined in Article 2 of Council Regulation

(EC) No 974/98 of 3 May 1998 on the introduction of the Euro, as amended. Unless the context requires otherwise, terms defined in the plural include the singular and vice versa. In the case of inconsistency between this Offering Memorandum and the Articles, the documents will take precedence in the following order to the largest extent permitted by law: (a) the Articles and (b) this Offering Memorandum. This Offering Memorandum should be read in conjunction with the Articles.

Capitalised words used in the Offering Memorandum will have the meaning ascribed thereto in section 1 “Definitions and Interpretation” hereof or elsewhere in this Private Placement Memorandum.

### **Data protection**

Certain personal data of Investors or prospective Investors (including, but not limited to, the name, address and invested amount of each Investor) may be collected, recorded, stored, adapted, transferred or otherwise processed and used by the Fund, the Services Providers and the financial intermediaries of such Investors. In particular, such data may be processed for the purposes of account and distribution fee administration, anti-money laundering and terrorism financing identification, maintaining the Share Register, processing subscription, redemption and conversion orders (if any) and payments of dividends to Shareholders and to provide client-related services.

The Fund may sub-contract to another entity (the **Processor**) (such as the Registrar and Transfer Agent and the Administrator) the processing of personal data. The Fund shall not pass personal data to any unauthorised third parties other than the Processor except if required by law or on the basis of a prior written consent of the Investor. The personal data is not intended to be used for marketing purposes.

If an Investor or a prospective Investor fails to provide such information in a form which is satisfactory to the Fund, the Fund may restrict or prevent the ownership of Shares in the Fund and the Fund, the Depositary, the Administrator or the Registrar and Transfer Agent shall be held harmless and indemnified against any loss arising as a result of the restriction or prevention of the ownership of Shares.

By completing and returning the Subscription Agreement, prospective Investors consent to the use of personal data by the Fund. This consent is formalised in writing in the subscription form used by the relevant intermediary.

The Fund may disclose personal data to its agents, Service Providers or if required to do so by force of law or regulatory authority. Each Investor has a right of access to his/her/its personal data and may ask for a rectification thereof in case where such data is inaccurate or incomplete.

Investors may request in writing the rectification of personal data. All personal data shall not be held by the Fund for longer than necessary with regard to the purpose of the data processing.

The Fund may need to disclose personal data to entities located in jurisdictions outside the European Union, which may not have developed an adequate level of data protection legislation. In case of a transfer of data outside the European Union, the Fund will contractually ensure that the personal data relating to Investors is protected in a manner which is equivalent to the protection offered pursuant to the Luxembourg data protection law of 2 August 2002 as amended.

### **Anti-money laundering regulations**

Pursuant to the Luxembourg laws of 19 February 1973 (as amended) on the sale of drugs and against drug addiction, 5 April 1993 (as amended) relating to the financial sector, and 12 November 2004 (as amended) relating to the fight against money laundering and against terrorist financing and to the circulars 08/387 and 10/476 of the Luxembourg financial sector supervisory authority (*Commission de Surveillance du Secteur Financier* – CSSF), obligations have been imposed on all professionals of the financial sector to prevent the use of undertakings for collective investment for money laundering purposes. Within this context a procedure for the identification of investors has been imposed. Namely, the application form of a prospective Investor must be accompanied by any supporting documents recommended or prescribed by applicable rules and

regulations allowing the appropriate level of identification of the prospective Investor and, as the case may be, its beneficial owners.

It is generally accepted that professionals of the financial sector resident in a country which has ratified the recommendations of the Financial Action Task Force (FATF) are deemed to be intermediaries having an identification obligation equivalent to that required under the laws of the Grand Duchy of Luxembourg. The complete updated list of countries having ratified the recommendations of the FATF is available on [www.fatf-gafi.org](http://www.fatf-gafi.org).

Further information on anti-money laundering practices and recommendations may be found on the website of the Association of the Luxembourg Fund Industry at [www.alfi.lu](http://www.alfi.lu) (Practices and Recommendations aimed at reducing the risk of money laundering and terrorist financing in the Luxembourg Fund Industry, December 2006).

Any information provided in this context is collected for anti-money laundering compliance purposes only.

## SELLING RESTRICTIONS

No action has been taken which would permit a public offering of the Shares in any jurisdiction where action for that purpose would be required. This Memorandum and any other document referred to therein do not constitute an offer or solicitation in any jurisdiction in which an offer or solicitation is not authorised, or in which the person making the offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such an offer or solicitation. Any representation to the contrary is unlawful. No action has been taken by the Fund that would permit a public offering of the Shares or possession or distribution of information in any jurisdiction where action for that purpose is required.

*The publication or distribution of this Memorandum as well as the marketing and distribution of shares of the Fund to professional or well-informed investors in other jurisdictions than Luxembourg may be limited or restricted. If the Fund offers Shares in Distribution Countries by way of private placement to well-informed investors, the Fund will proceed with the possible necessary prior notifications or any other required measures and the relevant regulations and restrictions in relation to the offering of Shares in such other jurisdictions will be included in the relevant prospective Investor's Subscription Agreement.*

**There will be no public offer of the securities of the Group in the United States. The Shares have not been and will not be registered under the United States Securities Act of 1933, as amended (the 1933 Act) or the Investment Fund Act of 1940 (the 1940 Act) as amended or any other applicable legislation in the United States, and may not be offered, sold, transferred or delivered, directly or indirectly, in the United States or to, or for the account or benefit of, any US person, except pursuant to an exemption from, or in a transaction not subject to the registration requirements of the 1933 Act and any applicable US state securities laws.**

## **GENERAL INFORMATION**

### **Registered Office**

33 A, Avenue J.-F. Kennedy  
L-1855 Luxembourg  
Grand Duchy of Luxembourg  
And as of the Effective Date:  
2C, rue Albert Borschette  
L-1246 Luxembourg  
Grand Duchy of Luxembourg

### **General Partner**

Pure Value Capital Partners S.A.  
37, rue d'Anvers  
L-1130 Luxembourg  
Grand Duchy of Luxembourg

### **Board of Directors of the General Partner (the Board)**

- Mrs. Marleen Vercammen;
- Mr. Marcel Van Laetem;
- Mr. Steven De Klerck;
- Mr. Christophe De Wit.

### **Depository**

UBS Europe SE, Luxembourg Branch  
33A, avenue J.F. Kennedy  
L-1855 Luxembourg  
Grand Duchy of Luxembourg

### **Central Administration, Domiciliation, Accounting, Registrar and Transfer Agent**

UBS Fund Services (Luxembourg) S.A.  
33 A, Avenue J.F. Kennedy  
L-1855 Luxembourg  
Grand Duchy of Luxembourg  
And as of the Effective Date  
Northern Trust Global Services Limited  
Luxembourg Branch  
6, rue Lou Hemmer  
L-1748 Senningerberg

### **Independent Auditor**

Grant Thornton Lux Audit  
89A, Pafebruch  
L-8308 Capellen  
Grand Duchy of Luxembourg

### **Legal advisor as to Luxembourg law**

KAUFHOLD & REVEILLAUD, Avocats



20, avenue Marie-Thérèse  
L-2132 Luxembourg  
Grand Duchy of Luxembourg

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## DEFINITIONS

Unless defined elsewhere in this Offering Memorandum or unless the context indicates otherwise, capitalised words and expressions in this Private Placement Memorandum have the following meanings:

**1915 Law** means the Luxembourg law of 10 August 1915 concerning commercial companies, as amended;

**1993 Law** Luxembourg law of 5 April 1993 on the financial sector, as amended;

**2007 Law** means the Luxembourg law of 13 February 2007 relating to specialised investment funds, as amended;

**Accounting Agent** means UBS Fund Services (Luxembourg) S.A., having its office at 33 A, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and as of or after 1 October 2017 (the "**Effective Date**"), Northern Trust Global Services Limited, Luxembourg Branch, 6, rue Lou Hemmer, L-1748 Senningerberg;

Shareholders will be informed of the exact Effective Date via the following websites: [www.ubs.com/funds](http://www.ubs.com/funds) and <https://www.northerntrust.com/about-us/news>.

**Administrator** means Central Administration Agent or CAA as administrator of the Fund;

**AIF** means an alternative investment fund according to the definition of the AIFM Directive and the AIFM LAW;

**AIFM** means an alternative investment fund manager according to the definition of the AIFM Directive and the AIFM Law;

**AIFM Directive** means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (Alternative Investment Fund Managers);

**AIFM Law** means the Luxembourg Law of 12 July 2013 on Alternative Investment Fund Managers;

**Annual Valuation** has the meaning set out in Section 11.3;

**Articles** means the articles of association of the Fund, as amended;

**Auditor** means the auditor (*réviseur d'entreprises agréé*) of the Fund being Grant Thornton Lux Audit, having its registered office at 9A, Pafebruch, L-8308 Capellen;

**Business Day** means any day on which banks are generally open for business in Luxembourg;

**Board** means the Board of Directors of the General Partner;

**Capital Call** shall mean the event of the Fund requesting a Capital Contribution from the Investors as set out in the relevant Drawdown Notice;

**Capital Commitment** means the maximum amount (denominated in EUR) committed by an Investor to the Fund pursuant to such Investor's Subscription Agreement and accepted by the Board (including any additional Capital Commitment made by such Investor and accepted by the Board at any Closing);

**Capital Contribution** means the cash contributed by an Investor excluding any Issue Premium (if any);

**Central Administration Agent (the Administrator or CAA)** means UBS Fund Services (Luxembourg) S.A., having its office at 33 A, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and as of the Effective Date, Northern Trust Global Services Limited, Luxembourg Branch, 6, rue Lou Hemmer, L-1748 Senningerberg;

**Central Administration Agreement** means the Central Administration and Domiciliation Agent Agreement entered into between the Fund and the CAA and containing the rights and duties of the Central Administration and the Domiciliation Agent, the Accounting Agent and the Registrar and Transfer Agent;

**Claims and Expenses** means, with respect to the relevant person, any and all liabilities, obligations, losses, damages, fines, taxes and interest and penalties thereon, claims, demands, actions, suits, proceedings (whether civil, criminal, administrative, investigative or otherwise), costs, expenses and disbursements (including legal and accounting fees and expenses, costs of investigation and sums paid in settlement) of any kind or nature whatsoever, which may be imposed on, incurred by, or asserted at any time against that person in any way related to or arising out of this Memorandum, the Articles, the Subscription Agreement, the Fund, the Investments or the management, administration, or activities of any Indemnified Person on behalf of the Fund or Investments;

**Class** means a class of Shares of the Fund (*catégorie d'actions*) as such term is understood under the 1915 Law. The Fund may issue several Classes of Shares;

**Closing(s)** means, any date on which the Board, at its discretion, accepts a Capital Commitment from an Investor. Investors may commit to subscribe for Shares in the Fund, as determined by the Fund;

**Fund** means Pure Value Capital Fund S.C.A., SICAV-SIF;

**Conflict of Interest Policy** means a policy put in place by the Board and regularly reviewed by it, dealing with the processes of identifying and addressing conflicts of interest in relation to the Fund;

**Conflicted Parties** has the meaning as defined in the Conflict of Interest Policy;

**CSSF** means the *Commission de Surveillance du Secteur Financier*, the Luxembourg regulator for the financial sector;

**CSSF Circular 07/309** means circular 07/309 issued by the CSSF concerning risk spreading in relation to specialised investment funds;

**CSSF Regulation N° 12-01** implementing article 42bis of the 2007 Law in relation to the requirements on risk management and conflicts of interest;

**Default** means the failure by an Investor described in Section 5 which would entitle a declaration of a Default Date;

**Default Date** has the meaning set out in Section 5;

**Default Expenses** means, with respect to any Investor, the amount of (a) any expenses incurred by the Fund, the Fund or any of the Service Providers arising from, or in connection with, a Default (including lawyers' fees, collection costs and interest, lender costs and borrowing expenses and administrative costs incurred by the Fund in relation with any additional Capital Calls from the other Investors to cover any shortfall caused by that Default); and (b) any other fee, charge or payment the Fund or any of the Service Providers in relation to which that Defaulting Investor is in default. Default Expenses include, for the avoidance of doubt,

any fees, interest, charges and costs associated with the use of any financing to cover any shortfall caused by that Default;

**Defaulting Investor** has the meaning set out in Section 5;

**Default Notice** means a written notice from the Fund to an Investor notifying it of its failure to contribute to the relevant amounts which are the subject of a Drawdown Notice on or before the Drawdown Date;

**Depositary** means UBS (Luxembourg) S.A., and as from or after 1 November 2016, UBS Europe SE, Luxembourg Branch, having its office at 33 A, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg in its capacity as depositary of the Fund;

**Depositary Agreement** means the Depositary and Paying Agent Agreement entered into between the Fund and the Depositary containing the rights and duties of the Depositary;

**Director** means a member of the General Partner's Board;

**Domiciliation Agent** means UBS Fund Services (Luxembourg) S.A., having its office at 33 A, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and as of the Effective Date Northern Trust Global Services Limited, Luxembourg Branch, 6, rue Lou Hemmer, L-1748 Senningerberg;

**Drawdown Amount** means the amount of the Capital Contribution which an Investor is to make, as specified in the Drawdown Notice;

**Drawdown Date** means the date, as specified in the Drawdown Notice, on which an Investor is to make a Capital Contribution to the Fund;

**Drawdown Payment Term** means the payment term, as specified in the Drawdown Notice, within which an Investor is to make a Capital Contribution to the Fund;

**Drawdown Notice** means, a written notice requesting a Capital Contribution to be made by an Investor on a Drawdown Date or within a Drawdown Payment Term in accordance with this Memorandum and the relevant Subscription Agreement;

**Drawdown Period** has the meaning given to in section 5;

**ETF** means exchange-traded fund, i.e. an investment fund traded on stock exchanges;

**EU** means the European Union;

**Euro, € or EUR** means the single currency of the member States of the European Economic and Monetary Union;

**Expenses** has the meaning set out in Section 21;

**Experienced Investor** means any investor, who (a) adheres in writing to the status of experienced investor and (b) either (i) commits to invest a minimum of EUR 125,000 in the Fund or (ii) has obtained an assessment by a credit institution within the meaning of Directive 2006/48/EC, an investment firm within the meaning of Directive 2004/39/EC, or a management Fund within the meaning of Directive 2009/65/EC certifying his/her/its expertise, his/her/its experience and his/her/its capacity to adequately appraise an investment in the Fund;

**Financial Year of the Fund** means a twelve (12) months period commencing on 1 January and ending on 31 December, except that the first Financial Year of the Fund will start on the date of incorporation of the Fund and end on 31 December 2015;

**Founder Shares** means the Shares in the Fund which have been subscribed upon incorporation of the Fund on Formation Date by the Founding Shareholder and any further shares subscribed by the latter;

**Fund** means Pure Capital Value Fund S.C.A., SICAV-SIF;

**Fund Formation Date** means the date on which the Fund was incorporated as described under Section 1 “The Fund” hereafter;

**Fund Documents** means collectively: (a) this Offering Memorandum; and (b) the Articles;

**General Meeting** means the general meeting of the Shareholders of the Fund;

**General Partner** means Pure Value Capital Partners S.A., a public limited liability company (*société anonyme*) incorporated under the laws of Luxembourg, having its registered office at 37, rue d’Anvers, L-1130 Luxembourg, in its capacity of managing general partner of the Fund;

**High Water Mark** means the highest value during a specific period which must be exceeded to trigger the Performance Fee as described in Section 22;

**Hurdle Rate** means the rate which must be exceeded to trigger the Performance Fee as described in Section 22;

**Indemnified Person** has the meaning given in Section 18;

**Investment** means any investment of the Fund;

**Investor** means any person who is or becomes an investor in the Fund by assuming a Commitment and, where the context requires, shall include that person as a Shareholder of the Fund, after the subscription of the initial share capital of the Fund by the initial Shareholders;

**Institutional Investors** means investors who qualify as institutional investors according to Luxembourg Law;

**Internal AIFM** means an AIFM according to Art. 3 section 2 AIFM Law;

**Liquid Assets** means cash or cash equivalents, including, inter alia and without limitation, investments in units of money market funds, time deposits and regularly negotiated money market instruments the remaining maturity of which is less than twelve (12) months, treasury bills and bonds issued by OECD member countries or their local authorities or by supranational institutions and organisations with regional (such as the EU) or worldwide scope as well as bonds admitted to official listing on a stock exchange or dealt on a regulated market, issued by first-class issuers and being highly liquid;

**Luxembourg** means the Grand Duchy of Luxembourg;

**Luxembourg Law** means the applicable laws and regulations of the Grand Duchy of Luxembourg;

**Management Share** means the non-participating management share subscribed for and held by the General Partner, having the characteristics and carrying the rights and obligations as set out in the Fund Documents and that is not redeemable;

**Market Value** means in relation to the Investments the market value determined as detailed in the Section 11;

**Memorandum** means this confidential offering memorandum, as amended or supplemented from time to time;

**Memorial** means the *Mémorial C, Recueil des Sociétés et Associations*, the Luxembourg official gazette;

**MIFID** means Markets in Financial Instruments Directive;

**Minimum Share Capital** means EUR 1,250,000 which is the minimum share capital of the Fund within the meaning of article 39 of the 2007 Law;

**Net Asset Value or NAV** means the net asset value of the Fund, each Class, each Share and each Series of Shares (if any) as determined in accordance with Section 10;

**Ordinary Shares** means the redeemable shares issued to the other limited Shareholders after the Fund Foundation Date;

**Offering Memorandum** means this Memorandum issued in respect of the Fund, as amended from time to time;

**Processor** means an entity (such as the Registrar and Transfer Agent and the Administrator) to which the processing of personal data may be sub-contracted by the Fund;

**Professional Investors** means Investors who qualify as professional investors within the meaning of Annex III to the 1993 Law;

**Reference Currency** means, in relation to each Class, the currency in which the NAV of such Class is calculated;

**Registrar and Transfer Agent** means UBS Fund Services (Luxembourg) S.A., having its office at 33 A, avenue J.F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg in its capacity as registrar and transfer agent of the Fund and as of the Effective Date Northern Trust Global Services Limited, Luxembourg Branch, 6, rue Lou Hemmer, L-1748 Senningerberg;

**Restricted Person** has the meaning set out in Section 8;

**Risk Management Policy** means the policy put in place by the Board and regularly reviewed by it, enabling the Fund to monitor and to determine on an ongoing basis the risks associated with the Fund's investment positions;

**Series of Shares** means separate series of Shares (if any) issued by the Fund as described in Section 4;

**Service Agreements** means the Depositary and Paying Agency Agreement, the Central Administration and Domiciliation Agent Agreement, the Investment Advisory Agreement (if any) and any other agreement between the Fund entered into and any other Service Provider;

**Service Providers** means the Depositary and Paying Agent, the Administration, Accounting, Domiciliation and the Registrar and Transfer Agent, the Investment Adviser (if any) and any other person who provides services to the Fund by way of a Service Agreement;

**Set-Up Costs** has the meaning set out in Section 21;

**Shareholder** means an owner of Shares;

**Share Register** means a register maintained by the Registrar and Transfer Agent, administering all the Shareholders and the Shareholders' personal data;

**Shares** means all shares issued by the Fund from time to time, representing the total outstanding share capital of the Fund;

**Subscription Agreement** means, the subscription agreement entered into by each Investor and the Fund, as the case may be, as it may be further amended from time to time; the agreement between the Fund and each Investor setting forth (i) the number and Class of Shares to be subscribed by such Investor, (ii) the rights and obligations of such Investor in relation to its subscription for Shares; and (iii) representations and warranties given by such Investor in favour of the Fund;

**Subsequent Investor(s)** means Investor(s) admitted by the Fund after the First Closing;

**Transfer** has the meaning set out in Section 0;

**Undrawn Commitment** means with regard to an Investor, the amount of its Commitment which at the relevant time is available to be drawn down;

**US person** means a citizen or resident of the United States, a corporation, partnership or any other entity created in or under the laws of the United States or any person falling within the definition of the term "United States Person" under the 1933 Act;

**Valuation Date** has the meaning set out in Section 10; a day as of which the NAV per Share of any Class is calculated, being at least four times per year at the end of each quarter, and the first time on [...];

**Well-Informed Investors** means any Well-Informed Investors within the meaning of article 2 of the 2007 Law. There exist three categories of Well-Informed Investors, (i) Institutional Investors, (ii) Professional Investors and (iii) Experienced Investors. For the avoidance of doubt, the Directors and the other persons involved in the management of the Fund are regarded as Well-Informed Investors for the purpose of article 2 of the 2007 Law.

Unless the context requires otherwise in this Offering Memorandum, any reference to an action of the General Partner means an action of the General Partner or any agent appointed by either the General Partner or any agent acting on behalf of the Fund.



## 1. THE FUND

### Corporate form - Legal regime

- 1.1 The Fund is a Luxembourg investment company with variable share capital (*société d'investissement à capital variable – SICAV*) organised as a single specialised investment fund (*fonds d'investissement spécialisé – FIS*) a corporate partnership limited by shares (*société en commandite par actions – SCA*), in accordance with the provisions of the 2007 Law and the 1915 Law. The subscription, sale and holding of Shares of the Fund is restricted to Well-Informed Investors subscribing on their own behalf or to Well-Informed Investors subscribing on behalf of other Well-Informed Investors for a minimum amount of at least EUR 250,000. The Fund shall never have more than 150 shareholders, which will be assured by its General Partner.
- 1.2 The Fund shall remain an internally managed AIF qualifying as below threshold AIF that need to be registered as such with the CSSF according to Art. 3 section 2 of the AIFM Law.
- 1.3 The Fund has been incorporated on 14 January 2016 (the **Fund Formation Date**) for an unlimited period of time and is registered with the Luxembourg trade and companies register under the number B 204385. The Articles have been filed with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés*) where they are available for inspection and where copies can be made. Its Articles will be published in the *Memorial* on [\*].
- 1.4 A Luxembourg corporate partnership limited by shares (*société en commandite par actions - SCA*) is a Fund established between at least one shareholder that shall be liable without any restriction according to the statutory provisions of the Commercial Companies Law and another shareholder only be liable to make Capital Contributions to the Partnership within the limits of their respective Capital Commitments to the Partnership.
  - (a) The *associé gérant* commandité resp. the General Partner (the **General Partner**) is responsible for the management of the Fund, which is an internally managed Alternative Investment Fund below threshold registered in accordance with the article 3 section 3 of the AIFM Law. The General Partner is indefinitely liable for the obligations of the Fund that may not be assumed by the Capital/share Capital of the Fund.
  - (b) The *associées commanditaires* resp. the limited partners whose liabilities are limited within the limits of their respective Capital Commitments to the Partnership.
- 1.5 The capital of the Fund shall be variable and shall be at all times equal to the value of its net assets (the **Net Asset Value** or **NAV**) of the Fund and is expressed in euro. The Fund was incorporated with an initial share capital of EUR [31,000 (*thirty-one thousand euro*)] issued with no par value represented by 1 (one) non-participating Management Share and three hundred nine (309) Founder Shares. The share capital increased by the issue premium (if any) of the Fund must reach the equivalent of EUR1,250,000 within a period of twelve (12) months following its authorisation by the CSSF (and may not be less than this amount thereafter). The Shares are registered shares only and fully paid up. Variations in the capital shall be effected *ipso jure* and there are no provisions requiring publications and filing of such variations with the *Registre de Commerce et des Sociétés*.
- 1.6 The registration of the Fund pursuant to the 2007 Law does not constitute a positive assessment of the quality of Shares of the Fund by the CSSF.

## **Classes and Series**

- 1.7 The Fund issues two classes of Shares, the Founder Shares (“Class A Shares”) and the Ordinary Shares (“Class B Shares”). These Classes are subject to different Investor types, fee structures, distribution, marketing targets, currency or other specific features as specified in Section 4 and 22. A separate NAV per Share, which may differ as a consequence of these variable factors, will be calculated for each Class. The Fund may, at any time, create additional Classes whose features may differ from the existing Classes subject to the amendment of the Memorandum.
- 1.8 Within a Class of Shares, the Board may, from time to time, decide to issue separate series of Shares (a Series).

## **Term of the Fund**

- 1.9 The Fund has been incorporated for an unlimited period of time.

## **Listing**

- 1.10 It is not envisaged that the Shares be listed on a stock exchange or on a regulated market.

## **2. INVESTMENT OBJECTIVE, STRATEGY AND RESTRICTIONS**

### **2.1 Investment Objective and Strategy**

- (a) The purpose of the Fund is to generate risk-appropriate returns by indirectly investing primarily (at least 51% NAV) in equity securities issued by companies worldwide. The security selection process would be based on a value approach (i.e. those stocks that are cheap in relation to realized fundamentals such as book equity, earnings, etc.), identifying those value companies who have solid balance-sheets, but are undervalued by markets. The Fund is characterized by a highly disciplined investment process. No qualitative overlay is being applied.
- (b) The Fund has been designed for investors who are looking for main exposure to global equity markets in the world. It is therefore ideal for investors who are looking to a diversified portfolio aimed at producing long term capital growth and who are comfortable with and understand the risks of investing in the equity markets of issuers world-wide located. The investors must be able to accept significant temporary losses. Due to the specific nature of the equity market in terms of economic, currency and political risks of certain non-European markets, the Fund is suitable for investors who can afford to set aside the capital for at least a 5-years-investment-horizon.
- (c) There can be no guarantee that the Investment Objectives of the Fund will be met.
- (d) The Fund may invest (directly or indirectly) in any kind of above-mentioned assets, which are eligible under the 2007 Law. The investment in derivatives is however excluded.
- (e) The Fund may hold up to 5 % of the Net Asset Value in cash.

- (f) The Fund shall not grant any loan, borrow through loans neither from bank nor other natural or legal persons, repurchase obligations nor otherwise use any short-selling techniques. It shall neither participate in any kind of securities lending programs.

## **2.2 Investment Restrictions**

### ***General***

- (a) The Fund shall not invest more than 10% of its Net Asset Value in any one single fund/stock. For the avoidance of doubt, the Fund will always hold at least four different investments.
- (b) The ratio of common equity to total assets is set to at least 55% using the most recent annual accounting statements.
- (c) The Fund may invest in ETFs. However, it shall not invest more than 25% (twenty-five percent) of the portfolio/Net Asset Value in such securities.
- (d) The restriction set out under Section 2.2(a) is not applicable to the acquisition of:
  - (i) units or shares in Target Funds that are subject to risk diversification requirements comparable to those set out in the CSSF Circular 07/309; and
  - (ii) securities issued or guaranteed by a Member State of the OECD or by its regional or local authority or by supranational institutions and organisations with European, regional or worldwide scope.

### **Regional constraints**

The Fund shall invest as follows:

- (a) at most 50% of its Net Asset Value is invested in Japan, South-Korea and Taiwan;
- (b) at most 75% is invested in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Israel, Italy, Netherlands, Norway, Poland, Portugal, Russia, Spain, Sweden, Switzerland and the United Kingdom;
- (c) at most 75% is invested in Australia, Brazil, Canada, Chile, Hong Kong, India, Indonesia, Malaysia, Mexico, New Zealand, Philippines, Singapore and Thailand;
- (d) at most 75% is invested in the United States and Canada.

### **Country constraints**

The Fund shall invest as follows:

- (a) at most 30% in each of the following countries: Germany, France, Japan, the United Kingdom;
- (b) at most 20% in each of the following countries: Austria, Belgium, Brazil, Canada, Chile, Denmark, Finland, Greece, Hong Kong, India, Indonesia, Ireland, Israel, Italy, South-Korea, Malaysia, Mexico, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Russia, Singapore, Spain, Sweden, Switzerland, Taiwan, Thailand.

## **Sector constraints**

The Fund shall invest as follows:

at most 50% in each of the following ten industries (energy, basic materials, industrials, cyclical consumer goods & services, non-cyclical consumer goods & services, financials, healthcare, technology, telecommunications services and utilities) where the ten industries are defined using the Bloomberg Classification scheme.

### ***Borrowing or short selling***

The Fund shall not borrow through loans neither from bank nor other natural or legal persons, repurchase obligations or otherwise nor use any short-selling techniques. It shall neither participate in any kind of securities lending program.

### ***Kick off period***

The investment restrictions of this Section 2 may not be complied with during a transitional period of no more than 12 months from the date of the Fund's first investment or, if market conditions are such that investments can be found within a shorter period of time to reach an appropriate level of diversification of risk, such shorter period of time, provided that the Board will endeavour to ensure, at all times, an appropriate level of diversification of risk within the portfolio of the Fund.

## **2.3 Concrete implementation of Investment Objective, Strategy and Restrictions**

The deal sourcing is made by application of a quantitative investment model and methodology developed by Mr De Klerck and as approved by the Board of the General Partner.

The responsible Director for the Portfolio Management prepares, based on investment objectives, strategy and restrictions, a preliminary investment recommendation (the **Investment Recommendation**) for the allocation of the portfolio or a potential new investment respectively reallocation in case of ascertained misallocation or non-compliance with the investment policy.

The Investment Recommendation follows from the application of the quantitative investment model which is subdivided into the following three steps:

### ***The Country Level***

In a first step the various valuation metrics are used such as the price-to-book ratio to assess whether a specific stock market (e.g. Belgium; please note that the examples used are purely indicative) is cheap or expensive from a historical point of view. In order to assess "cheapness", the Fund uses data collected from over the past 25 years. The strategic decision of the Fund is to exclude stock markets with current valuations above the 80<sup>th</sup> percentile.

### ***The Company Level***

In a second step – after the application of the Country-Level-Selection –, within the retained stock markets, (a) illiquid stocks, (b) small cap stocks, (c) stocks with high distress risk/bad fundamentals (solvency, profitability, liquidity) and (d) stocks with excessive valuations (e.g. stocks with a price-to-book ratio above 5) will be removed.

### ***The Portfolio Level***

In a third step, an optimization algorithm is used to select the cheapest value portfolio of around thirty stocks such that satisfies (a) all diversification criteria (cf. above, geography, country, sector, market capitalization), (b) liquidity criteria and (c) fundamental criteria (solvency, profitability, liquidity). As a result, the ratio of common equity to total assets of the overall portfolio (at the time of portfolio formation) should be above 55% at all times.

The first two steps are done via a screening procedure, though the third step involves an optimization procedure based on the described criteria.

As a result the Investment Recommendation is then submitted to the Board of Directors of the General Partner for discussion and approval. The final portfolio approved by the Board of Directors should then in principle always be maintained for a 12-months-period.

## **3. MANAGEMENT AND ADMINISTRATION**

### **The General Partner**

- 3.1 The Fund will exclusively be managed by Pure Value Capital Partners S.A., a public limited liability company (*société anonyme*), incorporated and existing under the laws of the Grand Duchy of Luxembourg, with registered office at 37, rue d'Anvers, L-1130 Luxembourg, Grand Duchy of Luxembourg, registered with the Luxembourg Trade and Companies Register under number B 204341 (the General Partner).
- 3.2 The General Partner will act as an internal AIFM according to Art. 3 AIFM Law, subject to its due registration with the CSSF, whose only end exclusive purpose shall be the management of the Fund.
- 3.3 The General Partner is responsible for all investment management of the assets of the Fund, for the day-to-day management of the affairs of the Fund as well as for the administration and marketing functions related to the Fund. The General Partner retains legal decision-making power and has the exclusive authority with regard to any decisions not specifically delegated or attributed to another entity or service provider and supervises the Central Administration and Domiciliation Agent, and any other service providers in the performance of their duties.
- 3.4 The General Partner may be removed by a majority of 100% (hundred percent) of the votes cast at a general meeting of Shareholders where at least 66% (sixty six percent) of the voting rights are represented. No consent of the General Partner is required for such Shareholders' resolution.
- 3.5 Upon the removal of the General Partner, a new managing general partner (*associé-gérant-commandité*) of the Fund shall be appointed by the Shareholders in a general meeting of Shareholders with the majority requirements set out in the Articles, which shall substitute, subject to the prior approval of the CSSF, the General Partner as managing general partner (*associé-gérant-commandité*) of the Fund by the accomplishment of any relevant and appropriate formalities, and which shall assume the General Partner's obligations as managing general partner of the Fund.

- 3.6 In case of liquidation of the General Partner, the Fund will not be terminated automatically. A new general partner shall then be appointed according the before section.
- 3.7 If necessary or required, this Offering Memorandum will, in each such case, be amended accordingly.
- 3.8 The General Partner will be managed by the Board of Directors (the Board). The Board will be composed of the following members:
- (A) Marleen Vercammen, Director, CFO;
- (i) Marleen Vercammen graduated from the UFSIA in Antwerp with a University degree in applied economics in 1983, followed by a master in tax at the fiscal Hogeschool in Brussels, Belgium.
  - (ii) She has a long experience in the financial sector. Immediately after her studies she started working for Cera Bank in Leuven before joining KPMG in the audit department. In 1989 she became *Reviseur d'entreprises / Bedrijfsrevisor* and worked over a period of 15 years for KPMG where she was promoted partner in 1998. From 2000 until 2007 she worked as CFO for ARINSO International, responsible for the set-up of the corporate finance department, the consolidation reporting, budgeting, control processes and legal affairs for some 50 affiliates in 27 countries. In 2007, Marleen Vercammen joined Saffelberg Investments as Director-CFO. Mrs Vercammen is also active as teacher at the Vlaams Economische Hogeschool (Vlekho), Brussels, occasional teacher at the Belgische Kamer van Rekenplichtigen in Antwerp and a teacher in various internal courses within KPMG.
  - (iii) Within the Board, Marleen Vercammen is responsible for the risk management and valuation review. Therefore, she will notably:
  - (iv) Ensure the supervision of delegated functions to the CAA,
  - (v) Control and asses the processes with respect to the Fund's risk management policies,
  - (vi) Coordinate the information and work flow between the company and the engaged service providers.
- (B) Marcel Van Laetem;
- (i) Marcel Van Laetem is director of two other Luxembourg specialised investment funds and conducting officer of one these SIFs. Furthermore he works as an economic and management Advisor at his own consulting enterprise MVL Consult S.à r.l.. He graduated from the University of Anvers, Belgium, with a bachelor degree in finance, administration and tax.
  - (ii) He has a long-standing experience as financial manager and director of several companies Luxembourg, Belgium and the Netherlands. Before founding MVL Consult S.à .r.l. and taking over the functions as fund director and conducting officer, after his first work experience as an ICT specialist in Belgium in the seventies, he worked from September 1980 until May 1989 as Financial Manager for Telindus NV, then in the same function for Iveco Belgium NV (June 1989 until January 1991), followed by further engagements for Group Claes & Sons NV

(Belgium) from February 1991 until October 1995 as manager, again as financial manager for Van Gansewinkel Group BV (Netherlands) and finally for De Raekt S.à r.l. / BV in spring of 2015 as Director.

- (iii) Within the Board, Marcel Van Laetem is responsible for the relations with the independent auditor and will deal with all matters concerning legal and administration. He will therefore notably:
- (iv) Be in charge of the preparation of the relevant documents and documentation for the annual accounts as well as the ongoing accounting documentation,
- (v) Review all relevant contractual documentation with respect to the investments of the Fund and its service providers,
- (vi) Be the main contact person for the auditors, chartered accountants and service providers;
- (vii) Be responsible for controlling, accounting, financial reporting, tax accounting and financial planning.

(C) Steven De Klerck, Director;

- (i) Steven De Klerck graduated from Vrije Universiteit Brussel at the Faculty of the Economic, Social and Political Sciences 2003, with a master in Business Engineering. From 2003 to 2004 he finalized his Advanced Studies at the Katholieke Universiteit Leuven doing a Master of Science in Statistics. From 2007 until 2014 he participated at the doctoral programme of the Universiteit Antwerpen which finished by the issuance of his doctoral thesis in 2014.
- (ii) He worked as an assistant at Katholieke Universiteit Leuven (from 2004 until 2006) and at the Universiteit Gent (2006-2007). Currently he is Assistant professor in Finance at Katholieke Universiteit Leuven at the Campus Brussels at the Faculty of Economy and Business School and assistant at the Vrije Universiteit Brussels at the Faculty of Economic and Social Sciences & Solvay Business School at the Department of Business and the Universiteit Antwerpen at the Faculty of Applied Economic Sciences at the Department of Accounting and Finance. Mr De Klerck was also fund manager at the closed fund CAPITA and CIO of Grit Capital – QuantAsia.
- (iii) Within the Board, Steven De Klerck is responsible for the portfolio management and the implementation of the investment restrictions, i.e. he will notably:
- (iv) Be responsible for the execution and implementation of the investments according to the investment strategy and restrictions,
- (v) Prepare all documents and documentation with respect to investments, and
- (vi) Be responsible for the implementation and set-up of cash-management strategies, notably for the investment of liquidity.

(D) Christophe De Wit, Director and Board member of different portfolio companies;

- (i) Christophe De Wit graduated with a degree in marketing in 1984 from the Willemsfonds, followed by a degree in commercial sciences of the University of Ichee-Cergeco in 1989.
- (ii) He has a long management experience in several start-ups in the IT sector as well as in the financial sector. Before joining Saffelberg Investments as Director in 2008, where he is also Board member of different portfolio companies, he worked as Executive Vice President Business Development & Strategic Alliances for NorthgateArinso (2006-2008) and was Managing Director Belgium for the same company from 1996 to 2006. Immediately after his studies he started his career at Toyo Inc Europe as an account manager (1984-1988) before working from 1988 until 1991 as Sales and Marketing manager Benelux for Konig & Hartman (Datelcom). Subsequent to that he became Sales Director for Dell Computer (1991-1996) for and founded the Belgian subsidiary as member of the Benelux management team.
- (iii) Within the Board, Christophe De Wit is responsible for the marketing, sales and distribution including the maintenance of the investor relationships. He will therefore notably:
- (iv) Ensure the reporting to the investors and any authorities or supervisory or regulatory authorities,
- (v) Prepare and organise the meetings with investors, and
- (vi) Be responsible for the performance of the general meetings.

3.9 The Board will manage the assets of the Fund in compliance with the Articles and the provisions of this Memorandum for the sole benefit, and in the best interest of the Investors.

### **Depositary**

3.10 The Board has appointed UBS (Luxembourg) S.A., and as from or after 1 November 2016, UBS Europe SE, Luxembourg Branch, with registered office at 33 A, Avenue J.F. Kennedy, L-1855 Luxembourg, registered with the Luxembourg Trade and Companies Register under the number B 11142, as Depositary and Paying Agent pursuant to the Depositary and Paying Agency Agreement dated April 15<sup>th</sup>, 2016.

3.11 On or after 1 November 2016, UBS (Luxembourg) S.A. will be merged into UBS Deutschland AG which will simultaneously adopt the form of a European Company (Societas Europaea, SE) under the name “UBS Europe SE”, while the business conducted in Luxembourg will be carried on without interruption by the Luxembourg branch under the name “UBS Europe SE, Luxembourg Branch”. No change will occur to the current processes and operations of the Depositary. The fees payable to the Depositary will not be affected by the merger of UBS (Luxembourg) S.A. into UBS Europe SE acting through its Luxembourg Branch.

3.12 UBS (Luxembourg) S.A. is licensed to carry out all banking activities within the meaning of the 1993 Law. The business activities of the bank focus on custody and related services for investment funds.



- 3.13 The rights and obligations of the Depositary are those determined by law, the Custody Agreement and the Articles. The Depositary acts independently of the Fund and exclusively in the interests of the Investors.
- 3.14 The Depositary is responsible for the supervision of all of the assets of the Fund and the safekeeping of any asset entrusted to it, including the securities and cash of the Fund which will be held either directly or indirectly, under its responsibility, through nominees, agents or delegates of the Depositary.
- 3.15 In the event that assets of the Fund are not materially deposited with the Depositary or with a sub-depositary/correspondent appointed by the Depositary to this end (considering the nature of the assets and the activities of the Fund) the obligations of the Depositary shall be limited to the supervision of such assets. The Depositary shall in particular verify the Fund's ownership of such assets and shall maintain a record of those assets for which it is satisfied that the Fund holds the ownership. This applies for investments in properties and, as the case may be, for shares in the Fund's subsidiaries (depending on their legal nature).
- 3.16 For the custody of any assets (in particular Liquid Assets) entrusted to the Depositary for safekeeping, the Depositary may appoint a sub-depositary/correspondent, which shall be selected with professional care and in good faith, from professional service providers (which may include affiliates of the Depositary) duly authorised to carry out their functions in the relevant jurisdictions. In this case, the Depositary shall be responsible for the safe-custody of the assets of the Fund within its custody network. The Depositary must exercise due care and diligence in the discharge of its duties and will be liable to the Fund and the Shareholders for any loss suffered by them arising from negligence, fraud, bad faith, wilful default or recklessness in the performance of its duties.
- 3.17 The Depositary is liable to the Fund, in accordance with the laws of the Grand Duchy of Luxembourg, for losses suffered by the Fund as a result of the Depositary's unjustifiable failure to perform its obligations or its improper performance of them. This liability of the Depositary is not affected by the fact that it has entrusted to a third party all or some of the assets for material safekeeping.
- 3.18 Except in the case of a contractual breach pursuant to the Depositary Agreement, the Depositary and the Fund are entitled to terminate the Depositary Agreement at any time to the end of a month with three months prior written notice. Until the appointment of a new Depositary, which must occur within the statutory time-period, the Depositary must take all measures that are necessary to safeguard the interests of the Investors. In accordance with article 36 of the 2007 Law, the Depositary Agreement shall be terminated forthwith:
- (a) if either the Fund or the Depositary is declared bankrupt, enters into a composition with creditors, obtains a suspension of payment, is put under court-controlled management or is subject of similar proceedings or is put into liquidation; or
  - (b) if the Fund's authorisation under the 2007 Law or the Depositary's license is suspended by the CSSF; or
  - (c) in any other case provided for in the Articles.

### ***Paying Agent***

- 3.19 The Depositary has also been appointed as the Paying Agent of the Fund.
- 3.20 The Depositary in its function as Depositary and Paying Agent is entitled to an appropriate remuneration as provided for in the Custody and Paying Agency Agreement. The Depositary has furthermore a right to a reimbursement of costs as agreed with the Fund. In addition, the Depositary will generally receive customary transaction fees for each transaction carried out on behalf of the Fund.

***Central Administration, Accounting, Domiciliation Agent and Registrar and Transfer Agent***

- 3.21 UBS Fund Services (Luxembourg) S.A., a Luxembourg public limited liability company (société anonyme), incorporated in the Grand Duchy of Luxembourg and having its registered office at 33 A, Avenue J.F. Kennedy, L-1855 Luxemburg, and as of the Effective Date, Northern Trust Global Services Limited, Luxembourg Branch, 6, rue Lou Hemmer, L-1748 Senningerberg, has been appointed to act as Administration, Domiciliation and Corporate Agent and Registrar and Transfer Agent of the Fund (collectively referred to as the Administrator or CAA) pursuant to the Central Administration and Domiciliation Agent Agreement dated April 15th, 2016.
- 3.22 The Administrator is a Luxembourg specialised professional of the financial sector (*Professionel du Secteur Financier* spécialisé - PSF) within the meaning of the 1993 Law. It is subject as such to the supervision of the CSSF.

***Central Administration and Accounting Agent***

- 3.23 Under the terms of the Central Administration and Domiciliation Agent Agreement entered into by and between the Fund and the Central Administration Agent (the Central Administration Agreement), the Central Administration Agent (the CAA) is in charge of the general administrative functions of the Fund. These include (among other things) the calculation of the NAV of the Shares (subject to the overall supervision of by the Board), the maintenance of the Fund's accounting records and the preparation of the financial reports required by this Memorandum and Luxembourg Law, in each case in accordance with the Central Administration Agreement.
- 3.24 Subject to the terms of the Central Administration Agreement, the CAA shall be liable for losses incurred by the Fund as a direct consequence of the negligence committed by the CAA (whether through an act or an omission) in the performance of its duties under the terms of the Central Administration Agreement, if and to the extent such losses exceed the thresholds foreseen by CSSF Circular 02/77, as amended; provided, however, that the CAA shall be liable for losses incurred by the Fund regardless of whether or not such losses exceed this threshold if (a) such losses are a direct consequence of the gross negligence (whether through an act or an omission) or the wilful misconduct committed by the CAA in the performance of its duties under the terms of the Central Administration Agreement, or (b) such losses are a direct consequence of the negligence of the CAA (whether through an act or an omission) in the performance of its duties under the terms of the Central Administration Agreement which may not be subject to such limitation of liability according to Luxembourg Law.
- 3.25 In connection with the calculation of the Net Asset Value, the CAA may rely on information supplied by third parties (such as administrative and Independent Valuers, if any, or managers of underlying investments) or by the Board. In the absence of manifest error, the CAA will not be liable for the accuracy of the relevant information received or for any errors in the Net

Asset Value calculation resulting from the inaccuracy of the relevant information received by the CAA from third parties. In relation to assets which are non-listed, the Administrator may rely in good faith on the valuations provided for by the Board, or by any third party authorised to that effect by the Board.

### ***Domiciliation Agent***

3.26 The Domiciliation Agent, shall, inter alia, provide such facilities at the Fund's registered office as may from time to time be reasonably required in the course of the day-to-day administration of the Fund including such meetings of its officers, directors and Shareholders as may be convened in Luxembourg, provide and supervise facilities and services in relation to the preparation and dispatch of correspondence, statements, announcements, reports and other documents to the Fund and or its Shareholders and maintain the records with regard thereto. Furthermore the Domiciliation agent shall prepare the general meetings of the Shareholders, draw up the minutes of meeting and provide for legally required publications.

### ***The Registrar and Transfer Agent***

3.27 The Registrar and Transfer Agent is in particular required to properly keep and maintain pursuant to the relevant applicable laws in Luxembourg, the Share Register, to process subscriptions, redemptions, conversions or transfer of Shares, to process dividends if any and other distributions on Shares and maintain the appropriate records.

3.28 The Board is responsible for the measures to be taken in accordance with the relevant laws of Luxembourg and relevant circulars issued by the CSSF in relation to the fight against money laundering and the financing of terrorism. The Fund has delegated this duty (under its supervision and responsibility) to the Registrar and Transfer Agent. Such measures require from the Registrar and Transfer Agent the identification and verification of the identity of prospective Investors as further described under Section 9 below.

3.29 The Registrar and Transfer Agent shall ensure that the Investors are in compliance with the eligibility requirements in relation to the 2007 Law.

3.30 The CAA for its services rendered as Administration, Accounting, Domiciliation and Registrar and Transfer Agent is entitled to an appropriate remuneration as provided for in the relevant Annex to the Central Administration Agreement.

3.31 The Depositary and Paying Agent, Administration, Accounting, Domiciliation and Registrar and Transfer Agent shall not be responsible for any decisions of the Board of Directors or the impact of such investment decisions on the performance of the Fund.

### **Auditor**

3.32 The accounting data related in the annual report of the Fund shall be examined by an auditor (*réviseur d'entreprises agréé*) appointed by the Fund and remunerated by the Fund. The auditor shall fulfil the duties prescribed by the 2007 Law.

3.33 The Fund has appointed Grant Thornton Lux Audit, a Luxembourg société anonyme, having its registered office at 89A, PAC Capellen-Pafebruch, Capellen and that is duly registered with the Luxembourg Trade and Companies Register under the number B 183652, as its auditor.

## 4. SHARE CAPITAL AND SHARES

### Investment by Well-Informed Investors

- 4.1 The Fund will not issue, or give effect to any Transfer of Shares to any Investor who is not a Well-Informed Investor according to definition of this Memorandum. The issue or Transfer of Shares may be further restricted in relation to Shares to Institutional or Professional Investors. Such eligibility requirements do not apply for the Founding Shareholders in relation to the issue of the Founder Shares. However, all Transfers are subject to the maintenance of the minimum commitment of EUR 250,000 of both the transferor and the transferee.
- 4.2 The Fund (and the Registrar and Transfer Agent - acting on behalf of the Fund) reserves the right to request such information as is necessary to verify the identity of an Investor and its status in regard to its qualification as Well-Informed Investor as further set out under Section 9. In the event of a delay or failure by a potential Investor to produce any information required for verification purposes, the Board (and the Registrar and Transfer Agent - acting on behalf of the Fund) may refuse to accept the subscription application.

### Description of the Shares

#### *Classes of Shares*

- 4.3 The capital of the Fund is represented by fully paid up Shares and is represented by currently two different Classes, namely the Class A and the Class B Shares.
- 4.4 Class A Shares are offered to investors having invested into the Fund as Founding Shareholders or to Investors that have committed themselves for a holding period of at least five years after the Fund Formation Date. The Class A Shares are capitalisation shares and thus the holders of Class A Shares will not be entitled to receive dividends and other distributions unless otherwise decided by the Board of Directors.
- 4.5 Class B Shares are offered to all other Investors. Class B shares are also capitalisation shares whereby the holders of Class B Shares will neither be entitled to receive dividends and other distributions.
- 4.6 It may be applied different fee schemes for the shares as further specified in section 22.

#### *Form of the Shares*

- 4.7 The Shares are issued and will remain in registered form (*actions nominatives*) only. The Shares are not represented by certificates.
- 4.8 The Share Register will be kept by the Registrar and Transfer Agent on behalf of the Fund. Such Share Register (and the Shareholders' personal data contained therein) will be available for inspection by any Shareholder. The Share Register will contain the name of each owner of registered Shares, his residence or elected domicile as indicated to the Fund and the number and Class of Shares held by it and the Disposal of Shares and the dates of such Disposal. The ownership of the Shares will be established by the entry in this Share Register.
- 4.9 Each Investor shall provide the Fund with an address, fax number and e-mail address to which all notices and announcements may be sent. Such address shall also be entered into the Share Register. Investors may, at any time, change their address as entered into the Share Register by

way of a written notification sent to the Fund.

- 4.10 The Fund will recognise only one holder per Share. In case a Share is held by more than one person, the Fund has the right to suspend the exercise of all rights attached to that Share until one person has been appointed as sole owner in relation to such Share. The same rule shall apply in the case of conflict between an usufruct holder (*usufruitier*) and a bare owner (*nu-propriétaire*) or between a pledgor and a pledgee.
- 4.11 Without prejudice to Section 0, title to Shares in registered form is transferred upon registration of the name of the transferee in the Share Register of the Fund.
- 4.12 Each Share is entitled to one vote at the relevant General Meeting. Shares will have no preemptive subscription rights. All Shareholders have the right to vote at each General Meeting. This vote can be exercised in person or by proxy. No resolution of the General Meeting with a view to take a decision affecting the interests of the Fund vis-à-vis third parties, to amend the Articles or to revoke and replace the Board may be taken without the affirmative vote of the Board.
- 4.13 The Fund's share capital is at all times equal to its NAV. The Fund's share capital is automatically adjusted when additional Shares are issued or outstanding Shares are redeemed, and no special announcements or publications are necessary in relation thereto.
- 4.14 There shall be no fractional Shares. Redemptions of Shares shall only be made for amounts representing multipliers of the respective NAV. The General Partner shall have the discretionary right to adjust the redemption amounts respectively to round down the respective requested redemption amounts in order to avoid any fractional shares.

#### **Subscription of Shares**

- 4.15 The Fund may issue fully paid up Shares in accordance with this Section 4. Each prospective Investor subscribing for Shares must execute the Subscription Agreement. The Subscription Agreement includes inter alia the aggregate Capital Commitment of each Investor and contains certain representations and warranties to be made to and by the Fund.
- 4.16 Investors whose Capital Commitments have been accepted by the Board shall be required to make Capital Contributions with respect to their Capital Commitments in consideration for the issuance of fully paid up Shares in the Fund in accordance with the terms of this Memorandum, the Articles and each Investor's Subscription Agreement. Capital Commitments will in principle always be drawn down completely.
- 4.17 Unless otherwise provided for, payments in relation to Capital Contributions shall be made in the relevant currency or any Class on the relevant Drawdown Date or within the relevant Drawdown Payment Term or on any other date as communicated by the Board to the Investors and under the terms and conditions as determined by the Fund. The modes of payment in relation to such Capital Contributions shall be determined by the Fund and more fully described in the relevant Subscription Agreement.
- 4.18 The Fund may determine any other subscription conditions such as minimum commitments, minimum subsequent commitments, default interests or restrictions on ownership. Such other conditions, if any, shall be disclosed and described in the Subscription Agreement. The Fund may also impose restrictions on the frequency at which Shares shall be issued.

4.19 The Fund may, in its absolute discretion, accept or reject (in whole or in part) any subscription application.

## 5. FAILURE TO COMPLY WITH A DRAWDOWN NOTICE

### General

5.1 Investors must be aware that the timely compliance with Drawdown Notices is essential to the ability of the Fund to conduct its business successfully. If any Investor fails for whatever reason (including where such failure is due to such Investor's bankruptcy, insolvency, dissolution, liquidation or other similar event) to:

- (a) pay to the Fund the amount which is due subject to a Drawdown Notice on or before the relevant Drawdown Date or within the relevant Drawdown Payment Term; or
- (b) perform or observe any other term, covenant or condition in its Subscription Agreement, the Articles or this Memorandum,

and has not advanced such amount (together with the additional amounts specified in Section 5.3 below) or performed such term, covenant or condition within ten (10) Business Days (or such longer period as the General Partner may specify) of the issue of a Default Notice by the Board, the General Partner shall have the right (but not the obligation) to declare such Investor a Defaulting Investor with effect from the date of such declaration (the **Default Date**).

5.2 An Investor may remedy its default by paying the following amounts to the Fund on or before the Default Date:

- (a) the amount requested under the Drawdown Notice;
- (b) interest at a rate of 8 % for the period of the relevant due date specified in the relevant Drawdown Notice up to the date of payment thereof;
- (c) an amount sufficient to reimburse the Fund with respect to any other related Default Expenses.

5.3 If an Investor does not remedy its Default in accordance with Section 5.2 above by the Default Date and is declared a Defaulting Investor in accordance with Section 5.1 above all of the Defaulting Investor's Shares have their voting rights suspended and do not carry right to dividend or distribution until payment is made and the Fund shall have the right but not the obligation to exercise one or more of the following remedies:

- (a) repurchase the Defaulting Investor's Shares at the lesser of (i) 70% of the latest calculated NAV of the Shares of the Defaulting Investor, at the Default Date (or for no consideration if the NAV of the Shares is equal to zero or negative) and (ii) 70% of the aggregate Capital Contributions made by the Defaulting Investor;
- (b) require the Investors other than the Defaulting Investor (the Non-Defaulting Investors) to contribute additional amounts to cover any defaulted amounts, provided that the total Capital Commitments of the Non-Defaulting Investors shall not be exceeded on account of such Default;

- (c) exercise an option to buy the Shares and Undrawn Commitment of the Defaulting Investor at a price equal to the lesser of (i) 70% of the aggregate Capital Contributions of the Defaulting Investor or (ii) 70% of the latest calculated NAV of the Shares of the Defaulting Investor (or for no consideration if the NAV of the Shares is equal to zero or negative), in which case, the General Partner will, after having acquired the Shares and Undrawn Commitment of the Defaulting Investor pursuant to the exercise of its option, offer the Shares and Undrawn Commitment of the Defaulting Investor to a third party (or parties) identified by the General Partner (which party or parties may include another Investor) provided that before offering the Defaulting Investor's Shares and Undrawn Commitment to any third party, the General Partner shall offer them to the Non-Defaulting Investors, who shall have a period of ten (10) Business Days to accept the offer. Any Non-Defaulting Investors expressing an interest in such a purchase will be offered it pro rata based on their existing Commitments. Any transfer of Shares pursuant to this Section 5.3(c) shall be subject to the terms and provision of Section 0;
- (d) to maintain the Defaulting Investor's obligation to pay, based on its Commitment prior to the Default, its pro rata share of Expenses (including management or performance fees, if any) as if the Default had not occurred;
- (e) cause the Fund to pursue any available legal remedies against the Defaulting Investor to collect any and all of the Commitments due from the Defaulting Investor and any other damages (including consequential damages); and
- (f) reduce or terminate the Defaulting Investor's Undrawn Commitment.

5.4 In the event that the Fund exercises its option to buy and the Board then transfers the Shares and Undrawn Commitment of a Defaulting Investor in accordance with Section 5.3(c), any amounts which would, in the absence of such Default, have been for the account of the relevant Defaulting Investor, shall be held by the Fund for the benefit of any purchaser of the Shares and Undrawn Commitment of the Defaulting Investor (subject to the right of the Board to deduct therefrom any Default Expenses) and upon the purchaser becoming an Investor such amounts will be paid over to the purchaser. The proceeds of sale shall, following receipt by the Board and subject to the deduction of such costs and expenses as aforementioned, be paid to the relevant Defaulting Investor.

5.5 With effect from the Default Date, the Shares/Undrawn Commitment of the relevant Defaulting Investor shall be disregarded for all purposes in relation to this Memorandum, including for the purpose of calculating a Fund's Consent or for the holding of any meeting or the exercise of any voting rights pursuant to the Articles or this Memorandum.

5.6 Any exercise of any or none of the remedies set out above will not prejudice the right of the Fund or the General Partner to pursue any other available legal remedies against any Defaulting Investor. The Fund shall have the right to set-off any of its obligation to pay any amount to the Defaulting Investor as a result of the exercise of any of its rights under Section 5.3 against any obligation of the Defaulting Investor owed to the Fund (and in particular, but without limitation, its obligation to pay the amount set out under Section 5.2).

## **6. REDEMPTION OF SHARES**

6.1 Ordinary Shares may be redeemed at the request of the Shareholders on each Valuation Date.

- 6.2 Redemption requests must be sent to the CAA or such other place as the Fund may advise. Redemption requests must be received by the CAA before 13:00 (CET) no later than fifteen (15) Business days prior to the relevant Valuation Date. Redemption received before this deadline will be received. Redemption request received after this deadline shall be deemed to be received on the next following Valuation Date and the redemption price shall be calculated on the basis of the NAV as of the next following Valuation Day. No redemption fee will be charged.
- 6.3 A Shareholder who redeems his Shares will receive an amount equal to the Net Asset Value per Share as of the relevant Valuation Day for the relevant Class.
- 6.4 Payment of the redemption proceeds shall be made generally within 14 (fourteen) calendar days following the availability of the redemption amount. Where a shareholder redeems Shares that have not yet been paid for, the General Partner is entitled to retain on the redemption amount the pending payment for the benefit of the Fund. Redemption may be suspended for certain periods as described under Section 12.
- 6.5 The Fund reserves the right to reduce proportionally all requests for redemptions whenever the total proceeds to be paid for the Shares tendered for redemption exceeds 5% (five per cent) of the total net assets. The portion of the non-proceeded redemptions will then be proceeded by priority to later requests on subsequent Valuation Days (but subject always to the foregoing five per cent limit) and in compliance with the principle of equal treatment of Shareholders.
- 6.6 Redemption requests are irrevocable (except during any period where the determination of the Net Asset Value, the issue, redemption and conversion of Shares is suspended). The Fund reserves the right not to redeem any Shares if it has not been provided with evidence satisfactory to the Fund that the redemption request was made by a Shareholder. Failure to provide appropriate documentation to the Administrative Agent may result in the withholding of redemption proceeds.
- 6.7 In accordance with Section 6.6, the Articles and the Subscription Agreement, Shares may however be compulsorily redeemed at the initiative of the Board on a pro rata basis among existing Investors. In the event that Shares are compulsorily redeemed, payment of the amount due will be made within a reasonable period of time.
- 6.8 The Fund may inter alia compulsorily redeem the Shares:
- (a) held by a Restricted Person in accordance with Section 8;
  - (b) if the assets of an Investor are subject to insolvency or similar proceedings or similar proceedings or the opening of such proceedings has been denied due to lack of assets, or if its Investor's interest, its claim to the settlement balance (claim of an Investor in the event of a redemption of Shares or the Fund's dissolution), or one of its other rights as an Investor are seized by a creditor and no evidence can be presented that such enforcement measures have been cancelled within sixty (60) days; until such time, all rights of the relevant Investor shall be suspended;
  - (c) in case of liquidation or merger of Classes, in accordance with the Articles;
  - (d) held by a Defaulting Investor in accordance with Section 5;
  - (e) for the purpose of the payment of fees;



- (f) in all other circumstances, in accordance with the terms and conditions set out in the Subscription Agreement, the Articles and this Memorandum.

## 7. TRANSFER RESTRICTIONS

### Transfer of Shares/Undrawn Commitments of Investors

- 7.1 No sale, assignment, transfer, grant of a participation in, pledge, hypothecation, encumbrance or other disposal (each a Transfer) of all or any portion of any Investor's Shares or undrawn Commitment, if any, whether voluntary or involuntary, shall be valid or effective if:
- (a) the Transfer would result in a violation of Luxembourg Law or the laws and regulations of any other jurisdiction (including, without limitation, the 1933 Act, any securities laws of the individual states of the United States, or ERISA) or, as determined by the Fund, would cause the Fund, or the Shareholders as a whole, to suffer any tax, fiscal, legal, regulatory, pecuniary or material administrative disadvantage which it or they would not otherwise have suffered.
  - (b) the Transfer would result in a violation of any term or condition of the Articles or of this Memorandum;
  - (c) the Transfer would result in the Fund being required to register as an investment Fund under the 1940 Act.

### 7.2 Conditions of Transfer

It shall be a condition of any Transfer (whether permitted or required) that:

- (a) such Transfer be approved by the General Partner and such approval not to be unreasonably withheld;
- (b) the transferee represents in a form acceptable to the Fund that such transferee is not a Restricted Person, and that the proposed Transfer itself does not violate any laws or regulations (including, without limitation, any securities laws) applicable to it;
- (c) in respect of the Transfer of Undrawn Commitment, the transferee enters into a Subscription Agreement in respect of the relevant Undrawn Commitment so transferred;
- (d) the transferor at the same time as the Transfer of Shares procures the transfer to the transferee of all or the relevant portion of its Undrawn Commitment or remaining commitment to provide funds to the Fund against the issue of Shares or otherwise, as the case may be;
- (e) the transferee is not a Restricted Person as defined in Section 8.1.

A Transfer is further subject to all other restrictions set forth in this Memorandum.

- 7.3 The Fund, in its sole and absolute discretion, may make such Transfer conditional upon the receipt of an opinion of responsible counsel which opinion shall be reasonably satisfactory to the Fund.
- 7.4 The transferor shall be responsible for and pay all costs and expenses (including any taxation) arising in connection with any such permitted Transfer, including reasonable legal fees arising in relation thereto incurred by the Board, the Investment Adviser (if any) or their Affiliates and stamp duty or stamp duty reserve tax (if any) payable. The transferor and the transferee shall

indemnify the Indemnified Persons, in a manner satisfactory to the Board, against any Claims and Expenses to which the Indemnified Persons may become subject arising out of or based upon any false representation or warranty made by, or breach or failure to comply with any covenant or agreement of, such transferor or transferee in connection with such Transfer. In addition, each Investor agrees to indemnify the Fund and each Indemnified Person from any Claims and Expenses resulting from any Transfer or attempted Transfer of its Interests occurred in violation of this Memorandum (and the terms of their Subscription Agreement).

7.5 No Transfer of all or any part of any Investor's Shares, whether direct or indirect, voluntary or involuntary, shall be valid or effective if such Transfer would result in a breach of any additional restriction in relation to a Transfer or the ownership of Shares as set out in this Section.

## 8. OWNERSHIP RESTRICTIONS

8.1 The General Partner may restrict or prevent the ownership of Shares by any individual or entity:

- (a) if in the opinion of the General Partner such holding may be detrimental to the Fund, or the other Investors;
- (b) if it would cause (either individually or in conjunction with other Investors in the same circumstances),
  - (i) the Fund, the General Partner, the Investment Adviser (if any), or the Investors as a whole, to suffer any tax, fiscal, legal, regulatory, pecuniary, financial or material administrative disadvantage which it or they would not otherwise have suffered;
  - (ii) the Fund being subject to the U.S. Employee Retirement Income Security Act of 1974, as amended; or
  - (iii) the Fund being required to register its Shares under the laws of any jurisdiction other than Luxembourg (including, without limitation, the 1933 Act or the 1940 Act);
- (c) if it may result in a breach of any law or regulation applicable to the relevant individual or legal entity itself, the Fund, the General Partner, whether Luxembourg Act or other law; and in particular if a relevant Shareholder does not qualify as a Well-Informed Investor (subject to further restrictions in relation to a) or has lost such qualification for whatever reason; or

(such individual or legal entities are to be determined by the Board and defined herein as “**Restricted Persons**”. A person or entity that does not qualify as a Well-Informed Investor shall be regarded as a Restricted Person.

8.2 **For such purposes the Fund may:**

- (a) decline to issue any Shares and decline to register any Transfer of Share/Undrawn Commitment, where such registration or Transfer would result in legal or beneficial ownership of such Shares or Undrawn Commitment by a Restricted Person; and
- (b) at any time require any person whose name is entered in the Share Register or of

(Undrawn) Commitments or who seeks to register a Transfer in the Share Register or of (Undrawn) Commitments to deliver to the Fund any information, supported by affidavit, which it may consider necessary for the purpose of determining whether or not beneficial ownership of such Shareholder's Shares/(Undrawn) Commitment rests with a Restricted Person, or whether such registration will result in beneficial ownership of such Shares/(Undrawn) Commitment by a Restricted Person.

- 8.3 If it appears that an Investor is a Restricted Person, the Board is entitled to, in its absolute discretion:
- (a) decline to accept the vote of the Restricted Person at the General Meeting and disregard its vote on any matter requiring the Fund's Consent; and/or
  - (b) retain all dividends paid or other sums distributed with regard to the Shares held by the Restricted Person; and/or
  - (c) instruct the Restricted Person to sell his/her/its Shares and to demonstrate to the Board that this sale was made within thirty (30) calendar days of the sending of the relevant notice, subject each time to the applicable restrictions on transfer as set out in Section; and/or
  - (d) reduce or terminate the Restricted Person's Undrawn Commitment; and/or
  - (e) compulsorily redeem all shares held by the Restricted Person at a price based on the lesser of (i) the latest available NAV of the Shares at the date on which the Board becomes aware that the relevant Investor is a Restricted Person (the moment of consideration being irrelevant if the NAV is equal to zero or negative) and (ii) the aggregate Capital Contribution of the Restricted Person, less a penalty fee equal to, in the absolute discretion of the Board, either (i) 30 % of the applicable price or (ii) the costs incurred by the Fund as a result of the holding of Shares by the Restricted Person (including all costs linked to the compulsory redemption).

## **9. ANTI-MONEY LAUNDERING AND TERRORIST FINANCING REQUIREMENTS**

- 9.1 The Fund is responsible for taking appropriate measures to combat money laundering and prevent the financing of terrorism in accordance with the relevant laws of Luxembourg and the relevant circulars published by the CSSF. This duty has been assigned by the Fund (under its control and responsibility) to the Registrar and Transfer Agent.
- 9.2 Pursuant to the Luxembourg laws of 19 February 1973 governing the sale of medicinal substances and the fight against drug addiction, as amended, 12 November 2004 in relation to the fight against money laundering and against the financing of terrorism, as amended and the 1993 Law as well as any applicable CSSF circulars, as amended, obligations are imposed on all persons, undertakings or companies operating in the financial sector to prevent any abuse for the purpose of money laundering and/or the financing of terrorism.
- 9.3 These measures aim towards the prevention of money laundering and the financing of terrorism and require from the Registrar and Transfer Agent a detailed verification of a prospective Shareholder's identity. Until satisfactory proof of identity is provided by potential Investors or transferees as determined by the Registrar and Transfer Agent, it reserves the right

to withhold issue or approval of registration of transfers of Shares. Similarly, redemption proceeds will not be paid unless compliance with these requirements has been made in full. In any such event, the Registrar and Transfer Agent will not be liable for any interest, costs or compensation.

- 9.4 In case of a delay or failure to provide satisfactory proof of identity, the Registrar and Transfer Agent may take such action as it thinks fit.
- 9.5 The documents and their relevant form and content required by the Registrar and Transfer Agent in relation to each Investor are listed in the service information Investor due diligence questionnaire (the Service Information) issued by the Registrar and Transfer Agent and as attached to the Subscription Agreement.
- 9.6 Depending on the circumstances of each application for subscription or registration of a Transfer, a detailed verification of the applicant's identity might not be required where the application is made through a financial institution or intermediary located in a country that is considered by the Registrar and Transfer Agent as imposing identification requirements equivalent to those in place in Luxembourg. The list of these countries can be provided by the Registrar and Transfer Agent upon request.

## **10. CALCULATION OF NAV**

- 10.1 The Fund's NAV will be calculated by the Administrator under the responsibility of the Board and in accordance with Luxembourg Law and the Articles, subject to any equalisation or the issue of separate Series of Shares, required to ensure that Investors are treated fairly. The NAV of each class of shares is determined at least four times a year. The Reference Currency of the Fund is the EUR.
- 10.2 Calculation of the NAV:
  - (a) The NAV of each Class shall be calculated in good faith on each Valuation Date in the Reference Currency of that Class, as defined hereinafter or by decision of the General Partner.
  - (b) The CAA shall calculate the NAV per Class of Shares: each Class participates in the Fund according to the portfolio and distribution entitlements attributable to each such Class. The value of the total portfolio and distribution entitlements attributed to a particular Class on a given Valuation Date adjusted with the liabilities relating to that Class on that Valuation Date represents the total NAV attributable to that Class on that Valuation Date. The assets of all Classes will be commonly invested within the Fund but subject to different fee structures, distribution, marketing targets, currency or other specific features as it is stipulated. A separate NAV per class of share, which may differ as a consequence of these variable factors, will be calculated for each Class as follows: the NAV of that Class on that Valuation Date divided by the total number of Shares of that Class then outstanding on that Valuation Date.
  - (c) For the purpose of calculating the NAV per Class, the NAV shall be determined by calculating the aggregate of:

- (i) the value of all assets of the Fund in accordance with the provisions of the Articles and this Memorandum; less
  - (ii) all the liabilities of the Fund which are allocated to the relevant Class in accordance with the provisions of the Articles, and all fees attributable to the relevant Class, which have accrued but are unpaid on the relevant Valuation Date.
- (d) The total net assets of the Fund will result from the difference between the gross assets (including the Market Value of Investments owned by the Fund) and the liabilities of the Fund based on a consolidated view, provided that
- (i) the equity or liability interests attributable to Investors derived from these financial statements will be adjusted to take into account the fair (i.e. discounted) value of deferred tax liabilities as determined by the Fund in accordance with its internal rules;
  - (ii) the acquisition costs for Investments shall be expensed in full when they are incurred; and
  - (iii) the set-up costs for the Fund shall be paid by the Fund and shall be amortised over a period of five (5) years rather than expensed in full when they are incurred.
- (e) The value of the assets of the Fund will be determined as follows:
- (i) any transferable security and any money market instrument negotiated or listed on a stock exchange or any other organised market will be valued on the basis of the last known price, unless this price is not representative, in which case the value of such an asset will be determined on the basis of its fair value by the Administrator according to its established procedures and reviewed by the General Partner;
  - (ii) the value of assets dealt in any other Regulated Market is based on their last available price;
  - (iii) in the event that the assets are not listed or dealt with in on any stock exchange or any other Regulated Market as aforesaid, and the price is determined pursuant to the two before sub-paragraphs is not representative of the fair market value of the relevant assets, the value of such assets will be based on reasonably foreseeable sales price determined prudently and by the Administrator according to its established procedures and reviewed by the General Partner;

units or shares of open-ended UCIs will be valued on the basis of the latest net asset value determined according to the provisions of the particular memoranda of the relevant UCI or, their latest unofficial net asset values (i.e. estimates of net asset values which are not generally used for the purposes of subscription and redemption of which may be provided by a pricing source – including the investment manager of the underlying UCI – other than the administrative agent of the underlying UCI) if more recent than their official net asset values. The net asset value calculated on the basis of unofficial net asset value as may differ from the net asset value which would have been calculated, on the relevant valuation date, on the basis of the official net asset values determined by the administrative agents of the UCIs. However, such net asset value is final and binding notwithstanding any different later determination. In case of the occurrence of an evaluation event that is not

reflected in the latest available net asset value of such shares of units issued by such UCIs, the valuation of the shares or units may be estimated with prudence and in good faith in accordance with procedures established by the Administrator and reviewed by the General Partner to take into account this evaluation event. The following events qualify as evaluation events (without limitation): capital calls, distributions or redemptions by the UCIs or one of its underlying investments as well as any material events or developments affecting either the underlying instruments or the UCIs themselves.

- (iv) the value of any cash on hand or on deposit, bills and demand notes and accounts, receivable, 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 it is unlikely to be received in which case the value thereof shall be arrived at after making such discount as the Administrator may consider appropriate in such case to reflect the true value thereof and as reviewed by the General Partner.
- (f) The General Partner, in its discretion and in compliance with Luxembourg Law, may permit some other method of valuation to be used if it considers that such valuation better reflects the fair value of any asset or liability of the Fund. This method will then be applied in a consistent way. The Administrator can rely on such deviations as approved by the General Partner for the purpose of the NAV calculation.
- (g) The value of all assets and liabilities not expressed in the Reference Currency of a Class will be converted as at the Valuation Date into the Reference Currency of such Class at rates last quoted by any major bank. If such quotations are not available, the rate of exchange will be determined by the Administrator according to its established procedures and reviewed by the General Partner.

10.3 For the avoidance of doubt, these provisions are rules for determining the NAV per Share and are not intended to affect the treatment for accounting or legal purposes of the assets and liabilities of the Fund or any Shares issued by the Fund.

10.4 For the purpose of this Section 10,

- (a) Shares to be issued by the Fund shall be treated as being in issue as from the time specified by the General Partner on the Valuation Date with respect to which such valuation is made and from such time and until received by the Fund the price therefore shall be deemed to be an asset of the Fund;
- (b) Shares of the Fund to be redeemed (if any) shall be treated as existing and taken into account until the date fixed for redemption, and from such time and until paid by the Fund the price therefore shall be deemed to be a liability of the Fund;
- (c) where on any Valuation Date the Fund has contracted to:
  - (i) purchase any asset, the value of the consideration to be paid for such asset shall be shown as a liability of the Fund and the value of the asset to be acquired shall be shown as an asset of the Fund;
  - (ii) sell any asset, the value of the consideration to be received for such asset shall be shown as an asset of the Fund and the asset to be delivered by the Fund shall not be included in the assets of the Fund;

provided, however, that if the exact value or nature of such consideration or such asset is not known on such Valuation Date, then its value shall be established by the Administrator according to its established procedures and reviewed by the General Partner.

#### 10.5 Allocation of assets and liabilities:

The assets and liabilities of the Fund shall be allocated as follows:

in the case where any asset or liability of the Fund cannot be considered as being attributable to a particular Class, such asset or liability shall be allocated to all the Classes pro rata to their respective NAVs or in such other manner as determined by the Board of the General Partner acting in good faith, provided that (i) where assets of several Classes are held in one account and/or are co-managed as a segregated pool of assets by an agent of the General Partner, the respective right of each Class shall correspond to the prorated portion resulting from the contribution of the relevant Class to the relevant account or pool, and (ii) such right shall vary in accordance with the contributions and withdrawals made for the account of the Class, as described in the Memorandum, and finally (iii) all liabilities, whatever Class they are attributable to, shall, unless otherwise agreed upon with the creditors, be binding upon the Fund as a whole;

#### 10.6 General rules:

- (a) all valuation regulations and determinations shall be interpreted and made in accordance with Luxembourg Law;
- (b) for the avoidance of doubt, the provisions of this Section 10 are rules for determining the NAV per Share and are not intended to affect the treatment for accounting or legal purposes of the assets and liabilities of the Fund or any Shares issued by the Fund;
- (c) the NAV as of any Valuation Date per Share Class may be obtained during business hours at the registered office of the Fund and at the offices of the Administrator. The Fund may arrange for the publication of this information in the Reference Currency of each Class and any other currency at the discretion of the General Partner in leading financial newspapers or any other appropriate media that is currently used in market. The Fund cannot accept any responsibility for any error or delay in publication or for non-publication of prices;
- (d) claims of the Fund against Investors in respect of Undrawn Commitments shall not be taken into account for the purpose of the calculation of the NAV.

## 11. VALUATION OF INVESTMENTS

The following rules apply in respect of the valuation process of Investments.

### General

11.1 As a rule the valuation is done based on the latest official market closing prices of publicly-traded securities as received by the Administrator. In the event that the assets are not listed or dealt with in on any stock exchange or any other regulated market as aforesaid, the Market Value of such assets will be calculated by the Administrator according to its established procedures and reviewed by the General Partner.



- 11.2 In case such valuation could not be done by means of the Administrator's established procedures or should not be considered as appropriate due to the specificities of the Investment, one or more independent valuer(s) might be appointed by the General Partner.. Such independent valuers may not be affiliated to the General Partner. The name of each independent valuer whose valuations were used by the General Partner will be published in the Fund's annual report. The Investors may inform themselves at the registered office of the Fund or the Administrator on the names of the independent valuer(s) of each Investment.

### **Valuations of Investments**

- 11.3 The Market Value of Investments owned by the Fund will be valued at least once a year in accordance with local laws, regulations and customary market practice depending on the location of the relevant Investment (the Annual Valuation).
- 11.4 The Annual Valuation will be used for valuing that Investment in connection with calculating the NAV on each Valuation Date during the following twelve (12) months period unless in the Board's opinion there is a material change in the general economic situation or in the condition of the relevant Investment which requires a new valuation which will be carried out in accordance with Section 11.3 above. The valuations will be reviewed by the responsible Director of the General Partner.
- 11.5 The Administrator is entitled to rely, without further inquiry, on the valuations or prices, which have been provided by or through external pricing sources which are used by common market practice (including but not limited to, (i) generally used information such as Bloomberg, or similar, (ii) brokers, primer brokers or external depositories, (iii) the administrators of underlying securities into which the Fund invests, where the valuation of such securities is established by the administrator of such securities), or which may have been specifically appointed by the Fund as an independent valuer.

## **12. TEMPORARY SUSPENSION OF CALCULATION OF THE NAV AND/OR OF SUBSCRIPTION, REDEMPTION AND CONVERSION**

- 12.1 The Fund may at any time and from time to time suspend the determination of the NAV of Shares of the Fund and/or the issue of Shares to subscribers and/or the redemption of Shares to its Shareholders and/or the conversion of Shares:
- (a) when one or more stock exchanges or markets, which provide the basis for valuing a substantial portion of the assets of Fund, or when one or more foreign exchange markets in the currency in which a substantial portion of the assets of the Fund are denominated, are closed otherwise than for ordinary holidays or if dealings therein are restricted or suspended;
  - (b) when, as a result of political, economic, military or monetary events or any circumstances outside the responsibility and the control of the General Partner, disposal of the assets of the Fund is not reasonably or normally practicable without being seriously detrimental to the interests of the Shareholders;
  - (c) in the case of a breakdown in the normal means of communication used for the valuation of any investment of the Fund or if, for any reason outside of the responsibility and control of the General Partner, the value of any asset of the Fund may not be determined

as rapidly and accurately as required;

- (d) if, as a result of exchange restrictions or other restrictions affecting the transfer of funds, transactions on behalf of the Fund are rendered impracticable or if purchases and sales of the Fund's assets cannot be effected at normal rates of exchange;
- (e) when for any other reason, the prices of any investments of the Fund cannot be promptly or accurately determined;
- (f) upon the publication of a notice convening a General Meeting for the purpose of winding-up the Fund;
- (g) when the suspension is required by law or legal process; and/or
- (h) when for any reason the General Partner determines that such suspension is in the best interests of Shareholders.

12.2 Any such suspension may be notified by the Fund in such manner as it may deem appropriate to the persons likely to be affected thereby. The Fund shall notify Shareholders requesting redemption or conversion of their Shares of such suspension.

### **13. GENERAL MEETING**

- 13.1 The annual General Meeting shall be held within six (6) months after the end of the Financial Year for the first time in 2016. The annual General Meeting will be held each year on each second Thursday of June at 2:00 p.m. CET at the registered office of the Fund or such other place as specified in the notice in relation to such meeting. If such day is not a Business Day, the General Meeting will be held on the following Business Day.
- 13.2 Other General Meetings may be held at such place and time as may be specified in the respective convening notices of that General Meeting.
- 13.3 Notices for each General Meeting will be sent to the Shareholders by registered mail or courier at least eight (8) calendar days prior to the relevant General Meeting at their addresses set out in the Share Register. Such notices will include the agenda and specify the time and place of the meeting and the conditions of admission and will refer to the requirements under Luxembourg Law with regard to the necessary quorum and majorities required for the relevant General Meeting. If all Shareholders meet and declare having had notice of the General Meeting or waiving the notice, the General Meeting may be validly held despite the accomplishment of the afore set formalities. The requirements as to attendance, quorum and majorities at all General Meetings are those set out in the 1915 Law and the Articles.
- 13.4 Except as otherwise required by the 1915 Law or as otherwise provided in the Articles, resolutions at a duly convened General Meeting will be passed by a simple majority of those present or represented and voting provided that no resolution of the General Meeting with a view to take a decision affecting the interests of the Fund vis-à-vis third parties or to amend the Articles may be taken without the affirmative vote of the Board.

## **14. FINANCIAL YEAR AND REPORTING**

- 14.1 The Financial Year of the Fund will begin on 1 January and terminate on 31 December of each year, except for the first Financial Year which started on the date of incorporation of the Fund and will end on 31 December 2015.
- 14.2 The Fund shall publish annually a report on its activities, on its investments and on the management of its investments. The report shall include, inter alia, audited financial statements, a description of the assets of the Fund, a report from the auditor and a calculation of the value of the assets of the Fund as per the financial year end.
- 14.3 The annual report will be sent to all Investors via electronic mail in pdf format and will be submitted to the annual General Meeting for approval within six (6) months after the end of each Financial Year.
- 14.4 At the latest fifteen (15) days prior to the annual General Meeting, the balance sheet, the profit and loss account, the reports of the Board and of the Auditor and such other documents as may be required by law shall be deposited at the registered office of the Fund where they will be available for inspection by the Shareholders during regular business hours.
- 14.5 Documents available for inspection by Investors free of charge, during usual business hours at the registered office of the Fund in Luxembourg:
- (a) the Articles and the latest available annual report.
  - (b) the following agreements may also be consulted at the Fund's registered office:
    - (i) the Custody and Paying Agency Agreement;
    - (ii) the Administration, Domiciliation and Corporate and Registrar and Transfer Agency Agreement; and
    - (iii) the Investment Advisory Agreement (if any);
  - (c) the additional reports (if any);
  - (d) the Conflict of Interest Policy of the Fund;
  - (e) the Risk Management Policy of the Fund.

## **15. DISSOLUTION/LIQUIDATION**

### **Dissolution and liquidation of the Fund**

- 15.1 The Fund may at any time be dissolved by a resolution taken by the General Meeting subject to the quorum and majority requirements set out in the Articles, and the consent of the Board.
- 15.2 In the event of a voluntary liquidation, the Fund shall, upon its dissolution, be deemed to continue to exist for the purposes of the liquidation. The operations of the Fund shall be conducted by one or several liquidators, who, after having been approved by the CSSF, shall

be appointed by a General Meeting, which shall determine their powers and compensation.

- 15.3 Should the Fund be voluntarily liquidated, then its liquidation will be carried out in accordance with the provisions of the 2007 Law and the 1915 Law. The liquidation report of the liquidators) will be audited by the Auditor or by an ad hoc external auditor appointed by the Investors meeting.
- 15.4 If the Fund were to be compulsorily liquidated, the provisions of the 2007 Law exclusively will be applicable.
- 15.5 The issue of new Shares by the Fund shall cease on the date of publication of the notice of the General Meeting, to which the dissolution and liquidation of the Fund shall be proposed. The proceeds of the liquidation of the Fund, net of all liquidation expenses, shall be distributed by the liquidators among the holders of Shares in each Class in accordance with their respective rights. The amounts not claimed by Investors at the end of the liquidation process shall be deposited, in accordance with Luxembourg Act, with the “*Caisse de Consignation*” in Luxembourg until the statutory limitation period has lapsed.

#### **Termination of a Class**

- 15.6 In the event that for any reason the value of the total net assets of any Class of Shares has decreased to, or has not reached, an amount determined by the General Partner or its delegate to be the minimum level for such Class of Shares, to be operated in an economically efficient manner or in case of a substantial modification in the political, economic or monetary situation or as a matter of economic rationalisation, the Board may decide to redeem all the Shares of the relevant Class or Classes at the NAV per Share calculated on the Valuation Date at which such decision shall take effect. The Fund shall serve a notice to the Investors of the relevant Class or Classes of Shares prior to the effective date for the compulsory redemption, which will indicate the reasons for, and the procedure of, the redemption operations. Registered Investors shall be notified in writing.
- 15.7 Any request for subscription shall be suspended as from the moment of the announcement of the termination, the merger or the transfer of the relevant class of share.
- 15.8 Assets which may not be distributed to their owners upon the implementation of the redemption will be deposited with the Depositary for a period of six (6) months thereafter; after such period, the assets will be deposited with the “*Caisse de Consignation*” in Luxembourg on behalf of the persons entitled thereto.

## **16. DISTRIBUTION**

### **General**

- 16.1 Each year the General Meeting will decide, based on a proposal from the General Partner, on the use of the balance of the year's net income of the Investments. As being conceived as capitalisation fund, in principle no dividend payments are intended thus the respective part of income and gains shall in principle be capitalized. It is the intention to accumulate the net income to this category of shares. Distributions may however take place in the form of capital repayments through the redemption of Shares, provided that after the relevant distribution the net assets of the Fund total more than the equivalent of EUR 1,250,000.
- 16.2 Notwithstanding the above, the Board may determine to repay capital through the redemption of Shares (including, for the avoidance of doubt, through a redemption of Shares pursuant to Section 6.3) in the form and under the conditions provided by law.
- 16.3 Payments will be made in the Reference Currency of the Class. Distributions remaining unclaimed for five (5) years after their declaration will be forfeited and revert to Fund.

### **Distribution of Net Distributable Cash**

- 16.4 As capitalisation fund there shall be no distributions of distributable cash as any free amounts or might be used for the payment of expenses or fees or being re-invested.

### **Limitations on Distributions**

- 16.5 Notwithstanding the before sections the Board shall not be obliged to make any distribution pursuant to Section 16.4:
- (a) unless there is cash available therefore;
  - (b) which would render the Fund insolvent;
  - (c) which, in the reasonable opinion of the Board, would or might leave the Fund with a subscribed share capital (increased by the share premium, if any) of less than EUR 1,250,000 or insufficient funds to meet any future contemplated obligations, expenses, liabilities or contingencies, including obligations to the Board, the Indemnified Persons, the relevant Investment Adviser or an Investment.
- 16.6 Distributions shall be made only if enough cash is available and only to Shareholders who are recorded in the Fund's Share Register as at the date a Distribution is made. As having made a Capital Contribution and no sums shall be treated as accruing due prior to actual payment. Neither the Fund, nor the Board or the Investment Adviser shall incur any liability for Distributions made in good faith to any Investor at the last address provided by it prior to the registration of any Transfer of all or any of its Shares in the Fund.

### **Distribution in kind**

- 16.7 The Fund will in principle not make distributions in kind. However, the Fund may distribute assets in kind to the extent it receives in kind distributions from Investment(s). To the extent practicable, however, such assets will not be distributed (other than in connection with liquidating distributions) unless they are readily marketable. Assets distributed to the Investors

in kind will be valued at the time of such distribution by the General Partner in good faith, taking account of such factors as it deems relevant and in view of the fair and equal treatment of Investors. When distributions are made in kind, they will be treated as cash distributions for purposes of applying the distribution provisions.

## **17. TAXATION**

### **Scope of the summary**

- 17.1 The present section gives a short summary of certain important Luxembourg tax principles that may be or become relevant in relation to the Fund and the investors in the Fund and is presented by way of guidance only. It is based on Luxembourg tax law in force and applied in Luxembourg at the date of this Offering Memorandum. The law upon which this summary is based may be subject to changes, possibly with retroactive effect.
- 17.2 This section does not purport to be a complete summary of tax law and practice currently applicable in Luxembourg and does not contain any statement with respect to the tax treatment of an investment in the Fund in any other jurisdiction. Furthermore, this section does not address the taxation of the Fund in any other jurisdiction or the taxation of any legal entity, partnership or undertaking for collective investments (“UCI”) without legal personality in which the Fund holds an interest.
- 17.3 The Fund reserves the right to disclose the names of the Shareholders on the Shareholders’ register, or any other relevant information relating to the Shareholders, to any tax authority where required by law or where the Fund believes such disclosure is in the best interests of the Fund or the Shareholders. If it does so, it shall advise the relevant Shareholders accordingly, unless prevented to do so by the law. In particular, the Fund reserves the right to disclose the information required under the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, as amended (the EU Savings Directive) in order to avoid a potential withholding tax on interest or similar payments to the Shareholders.
- 17.4 Interest, dividend and other income realised by the Fund on the sale of securities of non-Luxembourg issuers, may be subject to withholding and other taxes levied by the jurisdictions in which the income is sourced. It is impossible to predict the rate of foreign tax the Fund will pay since the amount of the assets to be invested in various countries and the ability of the Fund to reduce such taxes is not known.
- 17.5 The information set out above is a summary of those tax issues which could arise in Luxembourg and does not purport to be a comprehensive analysis of the tax issues which could affect a prospective subscriber. It is expected that Investors may be resident for tax purposes in many different countries. Consequently, no attempt is made in this Memorandum to summarise the tax consequences for any prospective Investor, subscribing, holding, redeeming or otherwise acquiring or disposing of Shares in the Fund. These consequences will vary in accordance with the law and practice currently in force in an Investor’s country of citizenship, residence, domicile or incorporation and with his or her personal circumstances.
- 17.6 Depending on individual circumstances, the taxation treatment for Shareholders may differ from the guidance below and prospective investors are advised to consult their own professional tax advisers in respect of the possible tax consequences of subscribing for, buying, holding, redeeming, converting or selling Shares under the laws of their country of

citizenship, residence, domicile, presence or incorporation.

## **Luxembourg**

### **Taxation of the Fund**

- 17.7 The Fund is not liable for any Luxembourg corporate income tax, municipal business tax and net wealth tax. The Fund is, however, liable in Luxembourg to a subscription tax (*taxe d'abonnement*) of in principle one-hundredth of one percent (0.01%) per annum of its net assets, such tax being payable quarterly on the basis of the value of the aggregate net assets of the Fund at the end of the relevant calendar quarter. The value of assets represented by units or shares held in other SIFs or in UCIs is however exempt from the subscription tax provided such units or shares have already been subject to this tax. Other exemptions may apply.
- 17.8 The Fund is liable for a fixed registration duty of EUR 75 to be paid upon incorporation and upon future modification (if any) of its articles of incorporation. An initial flat rate tax amounting to EUR 3,500 (*taxe forfaitaire unique*) will be levied by the CSSF upon implementation of the Fund followed by a EUR 3,000 flat tax to be paid annually by the Fund to the CSSF.
- 17.9 The Fund may not be entitled to claim treaty benefits under certain tax treaties entered into between Luxembourg and jurisdictions where the Fund makes investments, and therefore may not benefit from the provisions of such treaties in relation to certain matters.
- 17.10 The Fund is not subject to net wealth tax and the activity of rendering services relating to the management of a SICAV is exempt from VAT.

### **Taxation of shareholders**

- 17.11 Non-resident Shareholders are not liable to any taxation in Luxembourg by way of assessment or otherwise in relation to the holding, sale, redemption or assignment of the Shares, except with respect to Luxembourg gift tax which will be due if a gift is made pursuant to a deed signed before a Luxembourg notary or if such gift is registered in Luxembourg. Resident Shareholders (and non-resident Shareholders having a permanent establishment or a permanent representative in Luxembourg to which the Shares can be attributed) may be subject to tax on distributions made by, and upon disposal of Shares in the Fund and on the net wealth contained in it.
- 17.12 Under the existing laws of Luxembourg, there is no withholding tax on distributions by the Fund to the Shareholders in the form of dividend distributed or payments made upon redemption/refund/sales of its Shares by the Fund, except possibly in application of the EU Savings Directive.

### **Future changes in applicable law**

- 17.13 The foregoing description of Luxembourg tax consequences of an investment in, and the operations of, the Fund is based on laws and regulations which are subject to change through legislative, judicial or administrative action. Other legislation could be enacted that would subject the Fund to income taxes or subject Investors to increased income taxes.

**17.14 THE TAX AND OTHER MATTERS DESCRIBED IN THIS MEMORANDUM DO NOT CONSTITUTE, AND SHOULD NOT BE CONSIDERED AS, LEGAL OR TAX ADVICE TO PROSPECTIVE INVESTORS. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR OWN COUNSEL REGARDING TAX LAWS AND REGULATIONS OF ANY OTHER JURISDICTION WHICH MAY BE APPLICABLE TO THEM.**

## **18. INDEMNITY**

18.1 The General Partner, the Directors, officers, directors, direct and indirect shareholders, members, agents, partners and employees of each of the foregoing (each referred to as an Indemnified Person) are entitled to be indemnified, out of Fund's assets, against all liabilities, costs or expenses (including reasonable legal fees), damages, losses, suits, proceedings and actions, whether judicial, administrative, investigative or otherwise, that may be incurred by such Indemnified Person, or in which such Indemnified Person may become involved or with which such Indemnified Person may become threatened, in connection with, or relating to, or arising or resulting from, the Indemnified Person being or having acted as a member of the Board or arising in respect of or in connection with any matter or other circumstance relating to or resulting from the exercise of its powers as a member of the Board or from the provision of services to or in respect of the Fund or under or pursuant to any management agreement or other agreement relating to the Fund or which otherwise arise in relation to or in connection with the operation, business or activities of the Fund, provided that no Indemnified Person shall be entitled to such indemnification for any action or omission resulting from any behaviour by it which qualifies as fraud, wilful misconduct, reckless disregard or gross negligence.

18.2 The Fund may, wherever deemed appropriate, provide professional, D&O or other adequate indemnity insurance coverage to one or more of the Indemnified Persons.

## **19. ANNOUNCEMENTS AND CONFIDENTIALITY**

19.1 All public disclosure or announcement of the existence or the subject matter of this Memorandum shall be subject to the approval of the General partner or its delegate. This shall not affect any announcement or disclosure by an Investor under Section 19.2 but the Investor required to make an announcement or disclosure shall consult with the General Partner or its delegate insofar as is reasonably practicable before complying with such an obligation.

19.2 Each Investor shall procure that its directors, managers, employees, officers, partners, Investors, agents, consultants and advisers and any Affiliate (and their directors, employees, officers, partners, Investors, agents, consultants and advisers) keep confidential and shall not disclose any information provided to it by or on behalf of the Fund or otherwise obtained by or in connection with this Memorandum or which may come to its knowledge concerning the affairs of the Fund or any investment made or proposed by the Fund, save to the extent that:

- (a) disclosure is required by any applicable law or any court of law or any relevant regulator or tax authority;
- (b) disclosure is necessary in order for an Investor to enforce its rights under the terms of this



Memorandum;

- (c) disclosure is made by the General Partner to its own shareholders and to the regulatory, supervisory or other authority to which it is subject;
- (d) the information concerned is already in the public domain prior to disclosure (other than as a result of a breach of any obligation by any Investor);
- (e) disclosure is made to an Investor's bona fide legal, tax or accountancy advisers or auditors, provided that such disclosure is made on a confidential basis and such advisers or auditors undertake an equivalent duty of confidentiality to that set out in this Section; or
- (f) disclosure is required in good faith only where reasonably necessary to any Affiliate of that Investor, provided that such disclosure is made on a confidential basis and such Affiliate undertakes an equivalent duty of confidentiality to that set out in this Section.

## **20. PAYMENTS**

All payments to be made pursuant to terms set out in this Memorandum shall be made in EUR to the Investors or the Fund in immediately available funds to the accounts which will be communicated in writing by each Investor to the Fund or by the Fund to the Investors.

## **21. EXPENSES**

21.1 The Fund shall pay out of the assets all expenses incurred by it (Expenses), which in principle include the following:

- (a) fees and disbursements payable to the Service Providers including the Investment Advisory Fee, if any;
- (b) any fees, costs and expenses incurred in connection with making any filings with any government body or regulatory authority as well as statutory or regulatory fees, if any, levied against or in respect of the Fund or the Board together with the costs incurred in preparing any submission required by any tax, statutory or regulatory authority;
- (c) any fees and disbursements of the Board in its function as Board of the Fund whereby the aggregate amount of fees are estimated by the Board;
- (d) reasonable out-of-pocket expenses, insurance coverage and remuneration of the Members of the Board of the General Partner and reasonable travelling costs in connection with meetings of the Board;
- (e) any costs and expenses relating to investor related activity, including the drafting, printing and mailing of reports and information to Investors;
- (f) any fees, costs and expenses relating to valuations of Investments including the fees paid to Independent Valuers, if any;

- (g) any expenses incurred in connection with legal proceedings involving the General Partner or the Board in its function as Board of the General Partner of the Fund;
- (h) third party costs and expenses disbursed in connection with the day-to-day management of the Fund or the General Partner and the operations of the Fund, the General Partner and the Funds' Investments including fees and expenses in connection with Investments and dis-Investments which shall include, for the avoidance of doubt, expenses incurred in connection with Unconsummated Transactions;
- (i) legal or other professional fees, costs and expenses for the negotiation, structuring, financing and documentation in relation to the acquisition, ownership, financing, refinancing, hedging and realisation of any Investment, (whether or not completed or realised), any Investment-related fees and other fees (including, for the avoidance of doubt, any out-of-pocket costs or expenses incurred by any third party advisers or accountants), unless reimbursed by another person;
- (j) all third party costs and expenses incurred in connection with the performance of all due diligence investigations in relation to the acquisition, ownership or realisation of any Investment (whether or not completed or realised), unless reimbursed by another person;
- (k) the fees, costs and expenses required to be paid in connection with any credit or overdraft facility or other type of borrowing arrangement, including the legal fees, costs and expenses of the lawyers for the lender(s), the fees, costs and expenses of the Fund's counsel, lender's assumption or transfer fees and required reserves;
- (l) any expenses incurred in connection with obtaining legal, tax and accounting advice and the advice of other experts and consultants;
- (m) insurance premia, litigation, arbitration and indemnification expenses (in accordance with Section 18), including any claims and Expenses and governmental fees and charges associated therewith;
- (n) audit expenses;
- (o) bank charges and interest;
- (p) taxes and other governmental charges;
- (q) fees, costs and expenses incurred in connection with hedging any interest rate, foreign exchange or other risks associated with the business and affairs of the Fund, including any Investments; and
- (r) all costs and expenses related to dissolution and the liquidation of a Class or any Series of Classes or Shares, or the Fund. Expenses in relation to the incorporation of the Fund.

21.2 Any costs and expenses incurred by the Fund, its Funding Shareholders, the Board or any Affiliate of any of the foregoing, in connection with the establishment of the Fund, including any costs and expenses incurred in connection with the preparation of the Memorandum thereto including fees, costs and expenses of legal and tax advisers), will be borne by the Fund and will be amortised over a maximum period of five (5) years.

21.3 The Expenses of the Service Providers will have priority to those of the General Partner.

## 22. FEES

### 22.1 Subscription Fee:

The Fund is entitled to a maximum subscription fee of 3 % of the applicable NAV with respect to the subscription of Class A Shares and Class B Shares. The General Partner may however be entitled to waive the Subscription Fee partially or totally in its entire discretion.

### Performance Fee:

The Fund is entitled to a performance fee of 20 % above an annual Hurdle Rate of 4 % with high watermark. The high watermark however shall not be applicable to Class B shares.

The Performance Fee will be paid to the General Partner on an annual basis within 30 (thirty) after the end of the twelve-months-period for each of the respective Share Classes.

### 22.2 Redemption Fee:

In principle, no redemption fee is applicable.

However, in case Class A Shares holders decide to redeem their shares before expiry of the 5-year-holding-period, a 2.5 % (two point five per cent) redemption fee will be applied on the redemption amounts.

### 22.3 Management Fee:

No management fee shall be applied on Class A Shares.

The General Partner may charge a management fee of up to 0.5 % (zero point five percent) per annum calculated and accrued quarterly in arrears and based on the relevant quarter end NAV to be applied on the Class B Shares. The Management Fee will be paid to the General Partner within 30 (thirty) days of the end of the relevant calendar quarter.

22.4 **Depository Bank Fee** (excluding transactions costs): Maximum annual fee of 0,15 %, under application of a minimum fee, as the case may be, and as further stipulated in the Depository Agreement.

22.5 **CAA Fee**: Maximum annual fee of 0,15 %, under application of a minimum fee, as the case may be, and as further stipulated in the CAA Agreement.

## 23. RESERVE

The Fund may accrue reserves from time to time in its accounts.

## 24. RISK FACTORS

- 24.1 An investment in the Fund involves a significant degree of risk. An investment in the Fund is only suitable for those persons who are Well-Informed and are able to understand the degree of risk involved, are able to bear the economic risk of the investment, believe that the investment is suitable for them based upon their own investment objectives and financial needs, and have no need for liquidity of investment.
- 24.2 There can be no assurance that the Fund's objectives will be achieved or that there will be any return of capital.
- 24.3 Before making an investment decision with respect to Shares, prospective Investors should carefully consider all of the information set out in this Memorandum, and other documents referred to therein as well as their own personal circumstances. Prospective Investors should have particular regard to, among other matters, the considerations set out in this Section of this Memorandum. The risk factors referred to in this Section, alone or collectively, may reduce the return on the Shares and could result in the loss of all or a proportion of an Investor's investment in the Shares. The price of the Shares can go down as well as up and their value is not guaranteed. Investors may not receive, at redemption or liquidation, the amount that they originally invested in any Class or any amount at all.
- 24.4 The risks may, amongst others, include or relate to equity markets, foreign exchange rates, valuation risks, failure probability risk, concentration risks, liquidity risks, interest rates, currency risks, operational risks, credit risk, counterparty risk, market volatility and political risks. The risk factors set out in this Section are not exhaustive. There may be other risks that a prospective Investor should consider that are relevant to its own particular circumstances or generally.
- 24.5 An investment in the Shares is only suitable for investors who (either alone or in conjunction with any financial or other adviser) are capable of evaluating the merits and risks of such an investment and who have sufficient resources to be able to bear any potential losses that may result from that investment.
- 24.6 The investors should notably consider the purely quantitative strategy of the Fund and must evaluate for themselves if such approach is suitable for them. The application of the quantitative value strategy for the creation of the so defined equity portfolio implies the before-mentioned typical risks of such portfolio, notably the before-mentioned risks.
- 24.7 Before making any investment decision with respect to the Shares, prospective Investors should consult their own stockbroker, bank manager, lawyer, solicitor, accountant and/or financial adviser and carefully review and consider such an investment decision in the light of the foregoing and the prospective Investor's personal circumstances.

### ***Conflicts of interest***

- 24.8 The General Partner has implemented a Conflict of Interest Policy in accordance with Art. 42bis (2) of the 2007 Law in relation to the Fund. Such a Conflict of Interest Policy is available for inspection at the registered office of the Fund and shall be updated on a yearly basis. The General Partner commits to inform the CSSF immediately if there are changes to the Conflict of Interest Policy. In general, the Fund has been structured and organized in such way as to minimize the risk of Investor' interests being prejudiced by conflicts of interest between the Fund and, as the case may be, any person contributing to the Fund or any person directly or indirectly related to the Fund. In case of possible conflicts of interests, the Board

seeks to ensure the safeguard of the Investor' interests.

- 24.9 The General Partner and the relevant Investment Adviser(s) (if any) as the case may be, may be engaged in other business activities in addition to managing and providing advice to the Fund. It is possible that the entities with whom they are associated or which they manage or advise invest by way of co-investment or otherwise in the same issues, placements and investments as the Fund, and under the same or similar conditions. It is also possible that such associated companies may have already invested in these assets or may invest into such assets at a later stage. However, the Board and the relevant Investment Adviser (if any), as the case may be, will be obliged to devote such part of their professional time and attention to the business of the Fund as is reasonably required in the best interest of the Fund and its Investors in order to effectively manage the Fund. Investment opportunities which are suitable for the Fund and other accounts managed or advised by the Board, a relevant Director and the relevant Investment Adviser will be allocated as between the Fund and such other accounts in the reasonable discretion of the Board.
- 24.10 Certain Investors may, directly or indirectly through an Affiliate, hold shares in the Board, an Investment or a relevant Investment Adviser, as the case may be.
- 24.11 Investors may have conflicting investment, tax, regulatory and other interests with respect to their Commitment. As a consequence, conflicts of interest may arise in connection with decisions made by the General Partner or the relevant Investment Adviser, including with respect to the nature or structuring of Investments that may be more beneficial for one Investor than for another Investor. In selecting and structuring Investments, the Board or the relevant Investment Adviser will generally consider the investment and tax objectives of the Fund and its Investors as a whole, and not the investment, tax or other objectives of any Investor individually.
- 24.12 The General Partner or the relevant Investment Adviser (if any) may share with any other person (including, but not limited to, any Investor or any person introducing investors) any fees and other benefits to which it may be entitled from the Fund.
- 24.13 Unless otherwise expressly stated in this Memorandum, the General Partner or its Board, the relevant Investment Adviser, and their Affiliates are not restricted from forming additional investment vehicles, from entering into other investment management or advisory relationships or from engaging in other business activities, even though such activities may be in competition with the Fund and/or may involve a substantial portion of their time and resources. The General Partner or Investment Adviser(s) may provide investment management and advisory services to other investment vehicles or accounts whose investment policies differ from those followed by them on behalf of the Fund. They may make recommendations or effect transactions which differ from those effected with respect to the funds of the Fund. They may provide advisory services to accounts in which Shareholders hold a beneficial interest and whose investment policies are substantially identical to those of the Fund, on terms more favourable to such Shareholders than those of the Fund.
- 24.14 The Investment Adviser (if any) may continue to manage or advise the accounts of clients other than the Fund, employing different advisory strategies for those other accounts. There can be no assurance that these advisory services and strategies will not be different from or opposite to advice and services provided to the Fund. Although the Investment Adviser (if any) will be expected to manage potential and actual conflicts of interest issues in good faith by seeking to determine the existence of conflicts, there can be no assurance that such conflicts

of interest may be resolved in the best interests of the Fund, should they arise.

#### *Risk Management*

24.15 The Fund has a Risk Management Policy in place in accordance with article 42bis (1) of the 2007 Law, enabling the Fund to monitor and to determine on an ongoing basis the risks associated with the Fund's investment positions. Such Risk Management Policy is available for inspection at the registered office of the Fund.

#### *Lack of operating history*

24.16 The Fund is a newly founded entity and as such it has no significant operating history upon which to evaluate the Fund's likely performance.

#### *General economic and market conditions*

24.17 The success of the Fund's activities may be affected by general economic and market conditions, such as interest rates, availability of credit, inflation rates, economic uncertainty, changes in laws and national and international political circumstances. These factors may affect the level and volatility of security prices and liquidity of the securities held by the Fund.

24.18 Unexpected volatility or illiquidity could impair the Fund's profitability or result in it suffering losses.

#### *Key person risk*

24.19 The profitability of investing in the Fund depends among other things on the efficient management of the Fund and the members of the Board of the General Partner, the Investment Adviser, if any, and their principals. The loss of key staff, especially key staff of the General Partner, may further increase the risks of management errors (as described hereinafter).

#### ***Dependence on management***

24.20 The efficiency of the management depends among other things on the qualifications, experience, market expertise, and business connections of the respective management. Management errors, especially in concluding and executing contracts or incorrect decisions on investments or incorrect allocation of Investors' funds, may result in the income sought not being generated or higher costs being incurred. It also cannot be ruled out that management decisions may prove to be incorrect later. In particular, it cannot be generally assumed that decision-makers, who in the past have generated financial gains through their management decisions, will make successful management decisions in the future also.

#### *Temporary investments*

24.21 Monies paid to the Fund as Capital Contribution may be held in Liquid Assets on a temporary basis. These temporary investments produce lower returns for Investors during that period than returns earned by other investments during the same period.

### *Compulsory redemptions*

24.22 The Fund has the right to compel any Shareholder to a full redemption if in the sole and conclusive opinion of the Fund.

### *Absent secondary markets/sharply restricted tradability/insufficient liquidity*

24.23 The Fund does not expect that a secondary market for the Shares will develop and Investors should assume that they will not be able to divest themselves of the Shares. In particular, the Fund does not intend to buy Shares from Shareholders. There are no plans for the inclusion of the Shares in stock market trade.

24.24 Moreover, it is possible that the number of subscribed Shares may be less than the issue volumes for the Shares described in this Memorandum. There is a risk that a low subscription volume shall further reduce the already limited liquidity of the Shares than would have been the case had all of the Shares for issue been subscribed.

24.25 The Fund does not intend to provide buying and selling rates for the Shares. Potential buyers should, therefore, not rely on being able to dispose of the Shares on a particular date or at a particular market price.

24.26 An investment in the Shares is, therefore, not suited to Investors who will need to have access to the capital invested during the Term of the Fund.

### *Change of law*

24.27 Changes in applicable laws (also possibly retroactive) may have an adverse effect on the Investments and the return to Investors as they normally require changes to the offering documentation and/or the structure of the Fund the costs of which will be detrimental to the value of the Shares.

### *EU regulatory risk*

24.28 The Fund must comply with regulatory constraints, which might require a change in its structure and its documentation. It cannot be excluded that in further obligations subsequent to modifications to the AIFM Directive will be introduced that could have e.g. an effect on the distribution of the Fund's shares or that might simply increase the Fund's expenses due to new regulatory requirements.

### *FATCA compliance*

24.29 The Issuer, and other non-U.S. financial institutions through which payments on the Shares are made, may be required to withhold U.S. tax at a rate of 30 per cent. pursuant to Sections 1471 to 1474 of the U.S. Internal Revenue Code of 1986, as amended, (FATCA) on all, or a portion of, payments made after 31 December 2016 in respect of any Shares issued or materially modified on or after the date that is six months after the date on which Treasury Regulations that define the term "foreign passthru payment" are filed with the Federal Register (such date, the Grandfathering Date). Treasury Regulations that define the term "foreign passthru payments" have not yet been filed in the Federal Register. If Notes are issued before the Grandfathering Date, and additional Notes of the same series are issued on or after that date other than pursuant to a "qualified reopening" for U.S. federal income tax purposes, the Notes and such additional Notes may be subject to withholding under FATCA.

- 24.30 The United States have entered into a Model 1 intergovernmental agreement regarding the implementation of FATCA with Luxembourg (the "IGA"). Under the IGA, as currently drafted, withholding on "foreign passthru payments" (which may include payments on the Shares) by the Fund is not currently required but may be imposed in the future. In addition, significant aspects of when and how FATCA will apply remain unclear, and no assurance can be given that withholding under FATCA will not become relevant with respect to payments made on or with respect to the Shares in the future.
- 24.31 If an amount in respect of U.S. withholding tax were to be deducted or withheld from interest, principal or other payments on the Shares as a result of FATCA, the IGA or Luxembourg law implementing the IGA, none of the Fund, any paying agent or any other person would, be required to pay additional amounts as a result of the deduction or withholding of such tax. As a result, if withholding in respect of FATCA were required, investors could receive less interest or principal than expected. Shareholders should consult their own tax advisers on how these rules may apply to payments they receive under the Notes.
- 24.32 FATCA is particularly complex and its application is uncertain at this time. The above description is based in part on proposed regulations, official guidance and the model IGA, all of which are subject to change or may be implemented in a materially different form. Prospective investors should consult their own tax advisers on how these rules may apply to the Fund and to payments they may receive in connection with the Shares.**

#### *Distributions in Kind*

- 24.33 It is possible that not all direct investments will be realised by the end of the term, or that one or more Investments may make in-kind distributions. In that case, in the General Partners' discretion, there may, subject to Section 16.7, be in-kind distributions by the Fund of securities, which may be illiquid. There can be no assurance that Shareholders will be able to dispose of such securities or that the value of such securities determined by the Fund for purposes of the determination of distributions and the calculation of the management fee or performance fee (if any) will ultimately be realised.

#### *Tax risks in general*

- 24.34 An investment in the Fund involves complex tax considerations in Luxembourg, in the countries in which Investment assets are located, in countries in which particular investors are located, and possibly in other countries (including the countries in which the Investment Adviser or its Affiliates are located, as the case may be). Some of these tax considerations will differ for particular investors. Among other things, investors may be subject to tax on Fund income or deemed income even if the Fund does not make distributions.

Depending on individual circumstances, the taxation treatment for direct or indirect Investors may differ from the guidance of Section 17 and Investors should obtain advice from their own tax advisers regarding the tax implications for them of holding and disposing of Shares and receiving distributions in respect of the Shares.

#### *Valuation of the Fund's Investments*

- 24.35 The Fund's Investments may be illiquid, and may not be publicly-traded or readily marketable due to exceptional circumstances. The Board may therefore not have access to readily-ascertainable market prices when establishing valuations of the Investments. The Board and the Fund can provide no assurance that any given Investment could be sold at a price equal to



the market value ascribed to such Investment in connection with the Board's or an independent valuer's valuation thereof. Actual realised returns will depend on various factors, including future operating results, the value of the assets and market conditions at the time of disposition, any related transaction costs and the timing and manner of sale.

*Investments of the Fund in ETFs*

24.36 The Fund may invest all or part of its assets in ETFs. Such Fund's investments will be required to comply with the terms of the ETFs offering memoranda and constitutive documents, which may place limits on subscriptions and redemptions, and additionally the liquidation of an ETFs may lead to the compulsory redemption of any shares held by the Fund. Accordingly, the performance of the Fund may not absolutely reflect the performance of the relevant target funds.

*Regulatory risks in relation to ETFs*

24.37 The regulatory environment for funds is evolving and changes therein may adversely affect the ability of ETF to obtain the leverage they might otherwise obtain or to pursue their investment strategies. In addition, the regulatory or tax environment for derivative and related instruments is evolving and may be subject to modification by government or judicial action which may adversely affect the value of the investments held by ETF. The effect of any future regulatory or tax change on ETFs is impossible to predict.

*Risk of illiquidity of investments in relation to ETFs*

24.38 The ability of any target fund to initiate or close out positions (including the execution of stop-loss orders) may be adversely affected due to insufficient trading activity or, indeed, actual trading halts in the markets in which the securities and instruments held by the relevant target fund are traded. In such circumstances it may take time to liquidate the relevant target fund's or positions and the market prices obtained may be substantially different from those indicated at the time when the decisions to liquidate were taken. These risks may be accentuated where the relevant target fund is required to liquidate positions to meet redemption requests, margin calls or other funding requirements to an inflexible timetable.

**25. AMENDMENTS TO THE MEMORANDUM**

- 25.1 Subject to the relevant regulatory approval (if any) the General Partner Board may amend the provisions of this Offering Memorandum as follows:
- (a) where the change is determined by the Board of the General Partner not to be material, upon decision of the Board; or
  - (b) where the change is determined by the Board of the General Partner to be material, only by the Fund's Consent.
- 25.2 Investors will be notified by the General Partner of all amendments that are adopted without their consent in accordance with Section 25.1(a).
- 25.3 Investors will be notified in advance of any proposed material change to the Memorandum in order to ensure that they are able to make an informed judgment in

respect of the expected amendments. Amendments to this Memorandum, the sole purpose of which is to comply with changes to applicable laws their application to the Fund will be considered as not to be material.

- 25.4 No variation may be made to this Section 25 without unanimous consent of all Investors. Any amendment to this Memorandum that would result in a discrepancy between the terms and provisions of the Articles and those of this Memorandum shall be subject to the prior amendment of the Articles, in accordance with the provisions of the 1915 Law and the Articles.