

**TreeD Investment Fund PCC**

**A Protected Cell Company with Limited Liability**

Established as a closed-end fund authorised as a professional collective investment scheme, holding a Global Business Licence

Incorporated in the Republic of Mauritius

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CORPORATE & BUSINESS REGISTRATION DEPT  
REPUBLIC OF MAURITIUS

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This document is adopted as the constitution of TreeD Investment Fund PCC (the "Fund" or the "Company"), whereby the provisions of the Companies Act 2001 is modified, adopted and extended to the extent provided hereunder.

## 1. Definitions & Interpretation

1.1 In this Constitution, unless the context or subject requires otherwise, the words and expressions standing in the first column of the following table shall bear the meanings set opposite them respectively in the second column thereof.

<u>Expressions</u>	<u>Meanings</u>
Act	The Companies Act 2001 of Mauritius, as amended from time to time
Accounting date	The 31 <sup>st</sup> December of each year or such other date as the Board may from time to time decide
Administrator	Any person, firm or corporation appointed or, for the time being acting as administrator of the Fund, including the Cells
Auditor	Any person, firm or organisation appointed to perform the duties an auditor of the Company
Board	The directors of the Fund and/or the Cells where the number is not less than the required quorum acting together as a Board, or the Directors present at a meeting of Directors at which the quorum is present
Business Day	Any day (except Saturday or Sunday and such other day as the Directors may determine) on which banks in Mauritius are open for normal business
Capital	The stated capital of the Company
Capital Commitment	The amount a Shareholder has committed under a Subscription Agreement, to pay towards the purchase of Cell Shares, and "Capital Commitments" shall mean the Commitment of all Cell Shareholders in aggregate
Capital Contribution	The amount contributed by a Shareholder to the Fund and/or a Cell
Cell	A cell created pursuant to the provisions of the PCC Act for the purpose of segregating and protecting Cellular Assets
Cell Shares	The Shares created and issued by the Fund in respect of one of its Cells, being redeemable (at the option of the Company) and having the rights provided for under this Constitution with respect to such shares.
Cell Share Capital	The proceeds of the issue of Cell Shares
Cellular Assets	The assets of the Company attributable to the Cells, comprising of (a) the assets represented by the proceeds of Cell Share Capital and Reserves (includes retained earnings, capital reserves and share premiums) attributable to that Cell; and (b) all other assets attributable to that Cell.
Cellular Dividends	Dividends payable by the Company in respect of Cellular Profits of a Cell
Cellular Liabilities	Liabilities of the Company attributable to its respective Cells

<u>Expressions</u>	<u>Meanings</u>
Cellular Profit	The profit attributable to a Cell
Constitution	This Constitution as originally framed or as from time to time amended
Director	The person(s) occupying the position of director, for the time being, or as the case from time to time pursuant to this Constitution
Distribution in Kind	The transfer of Capital of the Non-Cellular assets to a Shareholder at the time of redemption, at the discretion of the Fund and acceptance of the Shareholder or at the request of the Shareholder and the discretion of the Fund Manager, subject to the terms of the Cell Supplement.
Drawdown	The payment by a Cell Shareholder to a Cell of a part of his Capital Commitment on being served by a Drawdown Notice
Drawdown Notice	A notice served on a Cell Shareholder requiring payment of part of the Capital Commitment in accordance with the Subscription Agreement
FSC	The Financial Services Commission of Mauritius
Indemnified Person	Any Director, Officer, member of a committee duly constituted pursuant to this Constitution and the Administrator, the Secretary, the Investment Manager, the Investment Adviser and their employees and affiliates, any employee of the Fund and every person having formerly held any one of these posts in the Fund
Initial Costs	All the setting up costs relating to the Fund and the Investment Manager, including but not limited to legal, accountancy, tax, printing, postage, professional services and all other costs of establishment
Investment	Any asset or right of any description the acquisition of which is authorised by the Constitution and for the time being owned by the Fund. Where any such investment consists of the right to receive repayment of a loan or deposit, references to purchasing or acquiring such investment shall be taken to include the making of the loan or deposit or the taking of an assignment or otherwise acquiring the right to receive repayment thereof and references to disposing of or realising such investment shall be taken to include repayment of the loan or deposit or the making of an assignment or otherwise disposing of the right to receive repayment thereof
Investment Manager	Any person appointed or, for the time being, acting as investment manager to the Fund including the Cells
Investment Management Agreement	The agreement entered into by the Fund with the Investment Manager
Laws	The laws of the Republic of Mauritius, currently in force, including the Act, the PCC Act, the Securities Act 2005, and any other act or regulation for the time being in force affecting the Company
Management Fee	The management fee payable by the Fund to the Investment Manager
Management Share	A voting, non-redeemable share in the capital of the Fund, of USD 1 par value, designated as a management share and having the rights provided for under this Constitution

<u>Expressions</u>	<u>Meanings</u>
Management Shareholder	The person registered as the holder of Management Shares
Mauritius	The Republic of Mauritius
Memorandum	The private placement memorandum or other offering document issued by the Fund or in respect of a Cell, as amended or replaced from time to time in accordance with the terms thereof, on the basis of which Shares are issued
NAV Calculating Agent	The person appointed as NAV Calculating Agent pursuant to Article 39
Net Asset Value	The value of the assets attributable to a Cell less the liabilities attributable to that Cell as determined in this Constitution
Non-Cellular Assets	The assets of the Company, which are non-Cellular Assets
Non-Cellular Dividend	A dividend payable by the Company, which is not a Cellular Dividend
Officer	A person appointed pursuant to this Constitution, excluding the Auditor of the Fund
Non-Cellular Liabilities	A liability of the Company not otherwise attributable to any Cell
Ordinary Resolution	A resolution proposed as such and approved by a simple majority of the votes of those Shareholders entitled to vote and voting, on the matter which is the subject of the resolution at a meeting of Shareholders
PCC Act	The Protected Cell Companies Act No. 37 of 1999, as amended
Redemption Price	The price at which Cell Shares shall be redeemed, calculated on the Net Asset Value
Seal	The common seal of the Company
Secretary	Any person, firm or association currently appointed as the company secretary of the Fund
Share	In relation to the Fund, a Management Share in the capital of the Fund, including a fraction of a Share. In relation to a Cell, a Cell Share issued in respect of that Cell and includes a fraction of a Cell Share.
Shareholder	In relation to a Cell, a registered holder of Cell Shares of that Cell. In relation to the Company, the registered holder of Management Shares.
Special Resolution	A resolution passed by a majority of seventy five per cent (75%) of the votes of the Shareholders entitled to vote and voting on the question, in person or by proxy
Subscription Agreement	An agreement entered into between the Fund and a Cell Shareholder with respect to a Capital Commitment
Subscription Price	The price at which a Cell Share is issued, as determined by the Board and stated under the Memorandum
Transaction Fees	Such fees as may be determined from time to time by the Board pursuant to Article 33

<u>Expressions</u>	<u>Meanings</u>
Cell Supplement	The offering document setting out the terms upon which Cell Shares in a particular Cell are offered to Shareholders, supplementing the Memorandum
Valuation Date	In relation to any Cell, such date as provided in the Cell Supplement.
Unfunded Commitment	In relation to a particular Cell Shareholder, that Shareholder's Capital Commitment less its Capital Contribution.

- 1.2 Clause headings are for convenience and reference purposes only and shall not be used in the interpretation, modification or amplification of any of the provisions hereof.
- 1.3 A reference to
- 1.3.1 any gender shall include all genders;
  - 1.3.2 the singular shall refer to the plural and vice versa;
  - 1.3.3 a natural person shall include a reference to a juristic person;
  - 1.3.4 a statutory enactment shall include a reference to that enactment in Mauritius (unless otherwise stated), as at the signature date and as amended or re-enacted from time to time;
  - 1.3.5 an article is to an article of this Constitution; and
  - 1.3.6 USD is reference to the currency of the United States of America.
- 1.4 The use of the word "including" (or a term similar thereto) followed by a specific example, shall not be construed as limiting the meaning of the general wording or specific examples succeeding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific examples.
- 1.5 The term "written" or any term of like includes typewritten, printed, painted, engraved, lithographed, photographed, electronically recorded or represented by any mode of representing or re-producing words in a visible form, including telex, telegram, cable, facsimile or other form of writing produced by electronic communication.
- 1.6 This Constitution, together with all appendices, schedules, amendments and addenda hereto shall form an integral part hereof.
- 1.7 If any conflict arises between this Constitution, the Memorandum and any provisions of the Companies Act 2001, the provisions set out in the Companies Act shall prevail, followed by the provisions of this Constitution, and finally the provisions of the Memorandum.
2. Name
- 2.1 The name of the Fund is TreeD Investment Fund PCC.
  - 2.2 An application to change the name of the Fund may be made by the Board, subject to a Special Resolution.
  - 2.3 Each Cell shall have its own distinct name, designation or denomination.
3. Nature of the Company
- 3.1 The Company has been incorporated as a public company with limited liability. The Fund shall be a protected cell company for the purposes of the PCC Act.

- 3.2 The Company shall hold a Global Business Licence, operating as a closed-end fund and authorised as a professional collective investment scheme under the Securities Act 2005 and the Securities (Collective Investment Schemes and Closed-End Funds) Regulations 2008.
- 3.3 The Company shall at all times comply with the requirements of the conditions of its licence and authorisations, including guidelines, directives or other instructions as may be given by the FSC from time to time.
- 3.4 The liability of the Shareholders is limited to:
- 3.4.1 any amount unpaid on their shares;
  - 3.4.2 the obligation (if any) to subscribe for Shares pursuant to the Constitution, the Memorandum or the Subscription Agreement, as the case may be; and
  - 3.4.3 such obligation as may be attached to their Shares or otherwise applicable to the Shares or otherwise applicable to the Shareholders under this Constitution, the Memorandum, the Subscription Agreement or any other agreement signed by the Fund and the Shareholders.
- 3.5 The liability of the Shareholders is limited to the amount, if any, unpaid on the Shares held by them. The liability of a Cell shall be limited only to the Cellular Assets of that particular Cell, save to the extent that where the Cellular Assets attributable to that Cell are insufficient, the Fund's non-cellular assets shall be secondarily liable.
- 4. Registered Office**
- 4.1 The registered office the Fund shall be situated at c/o Premier Financial Services Limited, Premier Business Centre, 10<sup>th</sup> Floor, Sterling Tower, 14 Poudriere St, Port Louis, or such other place within the Republic of Mauritius as the Board shall from time to time determine. Such address shall constitute the registered office in Mauritius to which all communications and notices may be addressed and which shall constitute the address for service of legal proceedings on the Fund.
- 4.2 The Fund, in addition to the registered office, may establish such other offices and places of business in Mauritius or elsewhere as the Board may from time to time determine.
- 5. Objects**
- 5.1 The main business objectives of the Fund will be private equity investments.
- 5.2 The Funds shall have, both within and outside Mauritius
- 5.2.1 full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction that is permitted and not prohibited under any Laws for the time being in force in Mauritius, in accordance with the investment strategy, policy and restrictions set out in the Memorandum as may be amended by the Board; and
  - 5.2.2 for the purposes of Article 5.2.1, full rights, powers, and privileges.
- 6. Financial Year**
- 6.1 The Accounting Date shall be the period ending 31<sup>st</sup> December or such other period as may be determined by the Board.
- 6.2 The first financial statements shall not exceed eighteen (18) months from the date of incorporation.
- 7. Cells**
- 7.1 The Company has been established with two (2) Cells.
- 7.2 The Board may establish Cells from time to time as provided under the PCC Act. The Cellular Assets of each Cell shall be kept separate and separately identifiable from Cellular Assets attributable to other Cells and from Non-Cellular Assets.



- 7.3 The proceeds from the allotment and issue of Cell Shares and other income and assets attributable to a Cell shall be applied in the books of the Fund to the Cell, and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Cell subject to the provisions of this Constitution.
- 7.4 Where any Cellular Asset of a Cell is derived from the Cellular Asset (whether cash or otherwise) of another Cell, such derivative Cellular Asset shall be applied in the books of the Fund to the same Cell as the Cellular Asset from which it was derived and on each revaluation of an asset the increase or diminution in value shall be applied to the relevant Cell.
- 7.5 Where any costs or expenses or any liabilities are incurred by the Fund and are, in the opinion of the Board, specifically attributable to a particular Cell, they shall be borne only by such Cell and where they are not specifically attributable to a specific Cell, such costs, expenses or liabilities shall be borne by the Fund generally (including, for the avoidance of doubt and if appropriate, by recourse to the non-cellular assets) in such manner as the Board, in their absolute discretion, deem most equitable.
- 7.6 Where any assets of the Fund (not being a Non-Cellular Asset) is determined by the Board not to be attributable to a specific Cell, the Board may in their discretion apportion such assets between one or more Cells in such manner as the Board, in their absolute discretion, deem fair and equitable and the Board may from time to time vary such basis.

## 8. Shares

- 8.1 The designations, powers, preferences, rights, qualifications, limitations and restrictions of each class and series of Shares shall be fixed upon creation of the Shares and all the aforesaid rights as to voting, dividends, redemptions and distributions shall be identical within each class or series.
- 8.2 The rights conferred upon the holders of the Shares of any class issued with preferred rights shall not, unless otherwise expressly provided by the terms of the issue of the shares of that class, be deemed to be carried by the creation or issue of further shares ranking '*pari passu*' therewith.

## 9. Issue of Shares

- 9.1 Subject to the provisions of this Constitution, different classes of Shares may be issued in the Company. Without limiting the aforesaid, Shares may be redeemable; confer preferential rights to distributions of capital or income; confer special, limited, or conditional voting rights; or not confer voting rights.
- 9.2 The Board may create separate classes of Shares. Cell Shares may be issued in accordance with the Shareholder's Capital Contribution under the Subscription Agreement.
- 9.3 The Board may, in accordance with the provisions of this Constitution, issue fractions of Shares which shall have corresponding fractional liabilities, limitations, preferences, privileges, qualifications, restrictions, rights and other attributes as those which relate to the whole Share of the same class or series of Shares.
- 9.4 Shares may be issued for money, services rendered, personal property, estates in real property, a promissory note or other binding obligation to contribute money or property or any combination of the foregoing as determined by a resolution of the Board.
- 9.5 Subject to this Constitution, the Board may issue Shares to any person and in any number it thinks fit, at such times and for such consideration and upon such terms and conditions as the Board may determine.
- 9.6 The terms of issue of Shares approved by the Board (including such terms as shall be set out in the Memorandum from time to time) shall:
- 9.6.1 be consistent with this Constitution and, to the extent that they are not so consistent, shall be invalid and of no effect; and

- 9.6.2 be deemed to form part of the Constitution and any amendment thereof.
- 9.7 Before it issues any Shares, the Board shall determine the amount of the consideration for which the Shares shall be issued and shall ensure that such consideration is fair and reasonable to the Company and to existing Shareholders. The consideration for which a Share is issued may take any form including payment in cash, promissory notes, contracts for future services, real or personal property, or other securities.
- 9.8 The Board may refuse to accept any application for Shares or accept any application in whole or in part. The Board has the right to return the monies received towards any application in part or in full depending on whether the application is accepted in part or rejected completely.
- 10. Management Shares**
- 10.1 The Company shall issue Management Shares to the Investment Manager which shall not be redeemable. All proceeds of allotment of Management Shares shall be kept separate and separately identifiable from Cellular Assets and shall form all or part of the Non-Cellular Assets of the Fund.
- 10.2 Management Shares shall confer on the holders thereof:
- 10.2.1 the right to vote in Shareholder meetings, other than meetings of the Cell Shareholders;
- 10.2.2 the right to participate in so much only of the assets of the Fund as are attributable to the Management Shares, which does not include the right to any distribution of dividends or of the surplus assets of the Fund;
- 10.2.3 in a winding up, the rights set out in Article 49.
- 10.3 The pre-emptive rights contained in section 55 of the Companies Act with respect to the issue of Shares shall be affirmed with respect to the Management Shares.
- 11. Cell Shares**
- 11.1 Subject to this Constitution, Memorandum, Cell Supplement and the Laws, Cell Shares shall be issued to persons in specifically designated Cells.
- 11.2 Cell Shares shall be redeemable at the option of the Company and shall confer on its holders the right to dividend but no voting rights (except in case of modification or variation of rights of that Cell of which it is a holder).
- 11.3 Cell Shares shall be issued in inscribed form and the Fund shall not issue share certificates in respect of Cell Shares. The Fund shall issue statements of holdings to Cell Shareholders, specifying the distinct name and designation of the relevant Cell and distinguishing number (if any) of the Shares to which it relates.
- 11.4 Cell Shares shall confer on the holders thereof:
- 11.4.1 in a winding up, the rights set out in Article 49; and
- 11.4.2 the right to receive such distribution/proceeds of redemption from the Fund in respect of the Cell Shares on such dates as the Board may determine in its absolute discretion and in accordance with this Constitution and the Subscription Agreement.
- 11.5 Subject to section 59 of the Act and this Constitution, the rights attached to the Shares may be restricted, limited, altered, or added to in accordance with the terms on which the Cell Share is issued.
- 11.6 The pre-emptive rights under section 55 of the Act with respect to Cell Shares shall be negated. The Board is expressly permitted to issue further Cell Shares at any time ranking as to distribution rights equally with, or in priority to, Cell Shares already issued by the Fund.

## 12. Drawdowns

- 12.1 Drawdowns shall be effected by way of Drawdown Notices. A first Drawdown shall be made at or shortly after the Initial Closing Date (as set out under the applicable Cell Supplement) to meet Initial Costs. The first Drawdown shall be for such sum as the Board shall consider as reasonable.
- 12.2 The Cell Shareholders shall be required to provide a balance of their Capital Commitments as notified to them from time to time by a Drawdown Notice which shall set out the amount of contribution that needs to be drawn down and a timescale (which shall not be less than 10 Business Days) for complying with such notice.
- 12.3 Apart from Drawdowns being made for the purpose of the Management Fees and Initial Costs, Drawdowns shall be made only for the purposes of Investments.
- 12.4 No Drawdown shall be made after the end of the commitment period (as set out under the applicable Cell Supplement), except that a Drawdown may be made to complete contracts entered into before that date and to the extent necessary:
- 12.4.1 to pay on-going operating expenses and liabilities of the Fund;
  - 12.4.2 to pay the Transaction Fee;
  - 12.4.3 to pay the Management Fee; and
  - 12.4.4 to make follow-on or top-up Investments in existing investee companies.
- 12.5 On the payment of any part of the Capital Commitment by a Cell Shareholder, fully-paid Cell Shares shall be issued to the Shareholder in accordance with the Subscription Agreement.
- 12.6 Any Cell Shareholder may be designated by the Board as a "Defaulting Shareholder" if the Cell Shareholder fails to comply with a Drawdown Notice.
- 12.7 A Defaulting Shareholder may be subject to any or all of the following consequences at the discretion of the Board:
- 12.7.1 Enforcement of the Defaulting Shareholder's obligations through pursuing any rights and remedies the Fund may have against the Defaulting Shareholder, including by taking legal action against the Defaulting Shareholder;
  - 12.7.2 Suspension or termination if the Defaulting Shareholder's right to receive any distribution. However the Defaulting Shareholder shall remain fully liable to the creditors of the Fund, to the extent permitted by the Laws, for the amount payable by the Defaulting Shareholder as if such default had not occurred;
  - 12.7.3 Suspension or termination of the Defaulting Shareholder's obligation and right to make future payments towards its Capital Commitment;
  - 12.7.4 Offsetting of amounts otherwise distributable to such Defaulting Shareholder against the unpaid amount of the Capital Commitment required under the Drawdown Notice;
  - 12.7.5 Prohibition on the Defaulting Shareholder from participating in any subsequent Shareholder vote, meeting, consent or decision; and
  - 12.7.6 Forfeiture of the Cell Shares in accordance with Article 19. Such forfeiture shall include all gains and distributions declared but unpaid and all payments made by the Defaulting Shareholder in respect of such Cell Shares.
- 12.8 Notwithstanding any of the actions taken by the Board in relation to such Defaulting Shareholder in accordance with Article 12.7, the Defaulting Shareholder shall remain liable to pay to the Fund (as applicable):
- 12.8.1 the Unfunded Commitment; and

12.8.2 any other amounts for which it is liable to pay to the Fund under the Constitution and the Subscription Agreement.

### 13. Transfer of Shares

13.1 No transfer of Shares shall be made except in the manner set out in the Constitution.

13.2 The instrument of transfer of a Share shall be signed by or on behalf of the transferor and the transferee. The transferor shall remain the holder of the Share until the name of the transferee is entered in the register of Shareholders in respect thereof. All instruments of transfer when registered may be retained by the Fund.

### 14. Directors' right to refuse registration of transfers

14.1 Notwithstanding any other provision of the Constitution, the Board may, in its absolute discretion and without assigning any reason therefore, decline to register any transfer of any Share to any person whether an existing Shareholder or not, where

14.1.1 so required by Laws;

14.1.2 registration would impose on the transferee a liability to the Fund and the transferee has not signed the transfer;

14.1.3 the Shareholder has failed to pay, on the due date, any amount payable thereon either in terms of the issue thereof or in accordance with the Constitution (including any call made thereon);

14.1.4 the transferee is a minor or a person of unsound mind;

14.1.5 the transfer is not accompanied by such proof as the Board reasonably requires of the right of the transferor to make the transfer;

14.1.6 the pre-emptive provisions contained herein have not been complied with, if applicable; or

14.1.7 the Board, acting in good faith, decides in its sole discretion that registration of the transfer would not be in the best interests of the Fund and/or any of its Shareholders.

14.2 If the Board declines to register a transfer it shall, within twenty-eight (28) Business Days after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.

### 15. Transfer notice and fair price

15.1 Every Shareholder, including the personal representative of a deceased Shareholder or the assignee of the property of a bankrupt Shareholder, who desires to sell or transfer any Share shall give notice in writing to the Board of such desire. Where such notice includes several Shares, it shall not operate as if it were a separate notice in respect of each such Share, and the proposing transferor shall be under no obligation to sell or transfer some only of the Shares specified in such notice. Such notice shall be irrevocable and shall be deemed to appoint the Board as the proposing transferor's agent to sell such Shares in one or more lots to any Shareholder or Shareholders of the Fund, including the Directors or any of them.

15.2 The price of the Shares sold hereunder

15.2.1 shall be the price agreed upon between the party giving such notice and the Board; or

15.2.2 failing any agreement between them within twenty eight (28) Business Days of the Board receiving such notice, such fair price as shall be determined by a person appointed jointly by the parties. In the absence of an agreement, either party may apply to the Judge in Chambers to appoint an arbitrator. The arbitrator or the person appointed by the parties shall certify the sum which, in his opinion, is the fair price for the Share.

15.3 Where the price for the Shares sold under Article 15.2 is agreed upon or determined, as the case may be, the Board shall immediately give notice to each of the Shareholders, other than the person

desiring to sell or transfer such Shares. Such notice shall state the number and price of such Shares and shall request each of the Shareholders to whom the notice is given to state in writing to the Board within twenty-one (21) Business Days of the date of the notice, whether he is willing to purchase any and, if so, what maximum number of such Shares. At the expiration of twenty-one (21) Business Days from the date of such notice, the Board shall

15.3.1 apportion such Shares amongst the Shareholders (if more than one) who have expressed a desire to purchase the Shares and, as far as possible, on a pro rata basis according to the number of Shares already held by them respectively, or

15.3.2 if there is only one Shareholder, all the Shares shall be sold to that Shareholder, provided that no Shareholder shall be obliged to take more than the maximum number of Shares stated in that Shareholder's response to such notice.

15.3.3 Where the apportionment is being made or any Shareholder notifies his willingness to purchase, the party desiring to sell or transfer such Share or Shares shall, on payment of the said price, transfer such Share or Shares to the Shareholder or respective Shareholders who has or have agreed to purchase the Shares and, in default thereof, the Board may receive and give a good discharge for the purchase money on behalf of the party desiring to sell and enter the name of the purchaser or purchasers in the Register of Shareholders as holder or holders of the Share or Shares so sold.

15.4 Where all the Shares remain unsold under Article 15.3 at the expiry of the period of sixty (60) Business Days of the Board receiving a notice under Article 15.1, the person desiring to sell or transfer the Shares, may, subject to Article 15.3, within a further period of thirty (30) Business Days, sell the Shares not so sold, but not a portion only, to any person who is not a Shareholder.

15.5 The person desiring to sell the Shares shall not sell the Shares for a price less than the price at which the Shares have been offered for sale to the Shareholders under this Article, but every such sale shall nevertheless be subject to the provisions of Article 14.

#### 16. Compulsory transfer or redemption

16.1 The Board has the right at its sole discretion to require (by issue of a written notice) the redemption of any or part of the Cell Shares held by a Shareholder or to require the Shareholder to transfer all Shares held by him to a person who is qualified or entitled to own the same, if the Board determines that:

16.1.1 the Shares are held for the benefit of a person and such ownership could, in the opinion of the Board, result in adverse tax or regulatory consequences to the Fund or any of its Shareholders; or

16.1.2 the ownership of the Shares is unlawful or may be harmful or injurious to the business or reputation of the Fund, the Investment Manager, the Custodian or the Administrator.

#### 17. Lien

17.1 The Fund shall have a first and paramount lien and privilege on every Share (not being a fully paid Share) for all monies, whether presently payable or not, called or payable, at a date fixed by or in accordance with the terms of issue of such Share in respect of such Share, and the Fund shall also have a first and paramount lien on every share (other than a fully paid share) standing registered in the name of a Shareholder, whether singly or jointly with any other person, for all the debts and liabilities of such Shareholder or his estate to the Fund, whether the same shall have been incurred before or after notice to the Fund of any interest of any person other than such Shareholder, and whether the time for the payment or discharge of the same shall have actually arrived or not, and notwithstanding that the same are joint debts or liabilities of such Shareholder or his estate and any other person, whether a Shareholder or not. The Fund's lien on a share shall extend to all dividends payable thereon. The Board may at any time, either generally or in any

particular case, waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this article.

17.2 The Fund may sell, in such manner as the Board may think fit, any Share on which the Fund has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen (14) Business Days after a notice in writing, stating and demanding payment of the sum presently payable and giving notice of the intention to sell in default of such payment, has been served on the holder for the time being of the Share.

17.3 The net proceeds of the sale by the Fund of any Shares on which it has a lien shall be applied in or towards payment or discharge of the debt or liability in respect of which the lien exists so far as the same is presently payable, and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the share prior to the sale) be paid to the person who was the holder of the Share immediately before such sale. For giving effect to any such sale, the Board may authorise such person to transfer the Share sold to the purchaser thereof. The purchaser shall be registered as the holder of the Share and he shall not be bound to see to the application of the purchase money, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings relating to the sale.

#### 18. Calls on Shares

18.1 The Board may, from time to time, make such calls as it thinks fit upon the Shareholders in respect of any amount unpaid on their Shares and not by the conditions of issue made payable at a fixed time or times, and each Shareholder shall, subject to receiving at least fourteen (14) Business Days' written notice specifying the time or times and place of payment, pay to the Fund at the time or times and place so specified the amount called. A call may be revoked or postponed as the Board may determine.

18.2 A call may be made payable at such times and in such amount as the Board may determine.

18.3 The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.

18.4 Where an amount called in respect of a Share is not paid on or before the time appointed for payment thereof, the person from whom the amount is due shall pay interest on that amount from the time appointed for payment thereof to the time of actual payment at such rate not exceeding 10% per annum, as the Board may determine. The Board may waive, wholly or partly, any interest payable under this Article.

18.5 Any amount which by the terms of issue of a Share becomes payable on issue or at any fixed time or in accordance with such terms of issue, shall for all purposes be deemed to be a call duly made and payable at the time at which by the terms of issue the same becomes payable and, in case of non-payment, all the relevant provisions of this Constitution relating to payment of interest and expenses, forfeiture or otherwise shall apply as if the amount had become payable by virtue of a call duly made and notified.

18.6 The Board may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

#### 19. Forfeiture of Shares

19.1 Where a Shareholder fails to pay any call or any instalment of a call for which such Shareholder is liable at the time appointed for payment, the Board may, at any time thereafter, serve notice on such Shareholder requiring payment of the amount unpaid together with any interest which may have accrued.

19.2 The notice under Article 19.1 shall name a further day, not earlier than the expiration of fourteen (14) Business Days from the date of service of the notice, on or before which the payment required by the notice shall be made, and shall state that, in the event of non-payment on or before the time appointed, the Shares in respect of which the amount was owing are liable to be forfeited.

- 19.3 If the requirements of any such notice are not complied with, any Share in respect of which the notice has been given may be forfeited, at any time before the required payment has been made, by resolution of the Board to that effect. Such forfeiture shall include all dividends, interests, gains, distributions and bonuses declared in respect of the forfeited share and not actually paid before the forfeiture.
- 19.4 A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board in its sole discretion thinks fit and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the Board thinks fit. Where any forfeited Share is sold within twelve (12) months of the date of forfeiture, the residue, if any, of the proceeds of sale after payment of all costs and expenses of such sale or any attempted sale and all amounts owing in respect of the forfeited Share and interest thereon shall be paid to the person whose Share has been forfeited.
- 19.5 A Shareholder whose Share has been forfeited shall cease to be a Shareholder in respect of the forfeited Share, but shall, nevertheless, remain liable to pay to the Fund all amounts which at the time of forfeiture, were payable by such person to the Fund in respect of the Share, but liability shall cease if and when the Fund receives payment in full of all such amounts.
- 19.6 A declaration in writing declaring that the declarant is a Director of the Fund and that a Share in the Fund has been duly forfeited on a date stated in the declaration shall be conclusive evidence of such facts as against all persons claiming to be entitled to the Share.
- 19.7 The Fund may receive the consideration, if any, given for forfeited Share on any sale or disposition thereof and may execute a transfer of the Share in favour of the person to whom the share is sold or disposed of, and such person shall then be registered as the holder of the Share and shall not be bound to see the application of the purchase money, if any, nor shall such person's title to the Share be effected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.

## 20. Transmission of Shares

- 20.1 In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the representative of the estate and succession, where he was sole holder, shall be the only person recognised by the Fund as having any title to his Shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any Share held by him solely or jointly with other persons. For the purpose of this article, the representative of the estate and succession means such person as the Board may in its absolute discretion determine to be the person recognised by the Fund for the purpose of this Article.
- 20.2 Any person becoming entitled to a Share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to his entitlement, either be registered himself as the holder of the Share or elect to have some person nominated by him registered as the transferee thereof.
- 20.2.1 If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Fund a notice in writing signed by him stating that he so elects. An application by any such person to be registered as a Shareholder shall be deemed to be a transfer of Shares of the deceased, incompetent or bankrupt Shareholder and the Board shall treat it as such.
- 20.2.2 If he shall elect to have his nominee registered, he shall signify his election by signing an instrument of transfer of such Share in favour of his nominee.
- 20.3 All the limitations, restrictions and provisions of this Constitution relating to the right to transfer under Article 15 shall not apply to any transfer authorised by Article 16 but every such transfer shall be subject to Article 14.

20.4 A person becoming entitled to a Share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to his entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the Share, but he shall not be entitled in respect of the Share to receive notices of or to attend or vote at meetings of the Shareholders or, save as aforesaid, to exercise in respect of the Share any of the rights or privileges of a Shareholder until he shall have become registered as the holder thereof.

## 21. Purchase or acquisition of own Shares

21.1 For the purpose of section 68 of the Act, the Fund is expressly authorised, subject to the approval of the Board, to purchase or otherwise acquire its own Shares upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Laws.

21.2 Subject to any restrictions or conditions imposed by the Laws, the Fund shall be expressly authorised to hold Shares acquired by it pursuant to Section 68 or 110 of the Act.

21.3 The Fund shall not acquire or redeem its own Shares where, as a result of such acquisition or redemption, there would no longer be any Shares on issue other than convertible or redeemable shares.

## 22. Share Certificates

22.1 Subject to this Article, the Fund may issue to every Shareholder, a share certificate specifying the Shares held by him.

22.2 In the case of a Share held jointly by several persons, delivery of a share certificate to one of several joint holders shall be sufficient delivery to all.

22.3 Any Shareholder receiving a share certificate shall indemnify and hold the Fund and its Directors and Officers harmless from any loss or liability which it or they may incur by reason of the wrongful or fraudulent use or representation made by any person by virtue of the possession thereof.

22.4 If a share certificate is damaged, destroyed or lost, it may be renewed on production of the damaged certificate on satisfactory proof of its loss or destruction together with such indemnity as may be required by the Fund.

## 23. Shareholders Meetings

### 23.1 Meetings and Written Resolutions

23.1.1 The Board shall convene and the Fund shall hold annual meetings in accordance with the Act, at such times and places as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when required by the Act, convene meetings of Shareholders, other than meetings with respect to the Cells.

23.1.2 Anything which may be done by resolution of the Shareholders in meetings of Shareholders or in a separate meeting in respect of a Cell, may be done by resolution in writing, signed by the Shareholders (or the holders of such Cell Shares) who at the date of the notice of the resolution in writing hold not less than seventy five per cent (75%) of the votes entitled to be cast on that resolution. Such resolution in writing may be signed by the Shareholder or its proxy, or in the case of a Shareholder that is a corporation by its representative on behalf of such Shareholder, in as many counterparts as may be necessary.

23.1.3 A resolution in writing made in accordance with this Article is as valid as if it had been passed by the Fund in a meeting of Shareholders or, if applicable, by a meeting of the relevant Cell, as the case may be.



## 23.2 Notice of Meetings

- 23.2.1 Written notice of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting and to every Director, the Investment Manager, the Secretary and Auditor not less than fourteen (14) days before the meeting.
- 23.2.2 The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it and the text of any Special Resolution to be submitted to the meeting.
- 23.2.3 Any irregularity in a notice of a meeting shall be waived where all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such Shareholders agree to the waiver.
- 23.2.4 Notwithstanding that a meeting of the Shareholders is called by shorter notice than that specified in this Article, it shall be deemed to have been duly called if it is so agreed by all the Shareholders entitled to attend and vote thereat.
- 23.2.5 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.
- 23.2.6 The Board may cancel or postpone a meeting of the Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with this Constitution upon all Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this article.

## 23.3 Election of chairperson at Shareholder Meetings

- 23.3.1 Where the Directors have elected a chairperson of the Board, and the chairperson of the Board is present at a meeting of shareholders, he shall chair the meeting.
- 23.3.2 Where no chairperson of the Board has been elected or if, at any meeting of shareholders, the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the meeting, the Directors present shall elect one of their number to be chairperson of the meeting.
- 23.3.3 Where no Director is willing to act as chairperson, or where no Director is present within 15 minutes of the time appointed for holding the meeting, the Shareholders present may choose one of their number to be chairperson of the meeting.

## 23.4 Methods of holding Shareholder Meetings and quorum

- 23.4.1 No business shall be transacted at any meeting of Shareholders unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by this Constitution, at least one Shareholder present in person or by proxy and entitled to vote shall be a quorum for all purposes.
- 23.4.2 If within thirty (30) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting, one Shareholder present in person or by proxy and entitled to vote shall be a quorum.

23.4.3 A meeting of the Shareholders may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

### 23.5 Voting

23.5.1 Save where a greater majority is required by the Act or this Constitution, any question proposed for consideration at any meeting of Shareholders shall be decided on by a simple majority of votes cast.

23.5.2 At any meeting of Shareholders, a resolution put to the vote of the meeting shall be decided on a show of hands or by voice or by a count of votes received in the form of electronic records, unless a poll is demanded by:

23.5.2.1 the chairman of the meeting; or

23.5.2.2 not less than five (5) shareholders having the right to vote at the meeting; or

23.5.2.3 any Shareholder or Shareholders present in person or represented by proxy representing not less than ten per cent (10%) of the total voting rights of all the Shareholders having the right to vote at such meeting; or

23.5.2.4 a Shareholder or Shareholders present in person or represented by proxy holding Shares in the Fund conferring the right to vote at such meeting and on the aggregate paid up is not less than ten percent (10%) of the total amount paid up on all such Shares conferring such right.

23.5.3 The demand for a poll may be withdrawn by the person or any of the persons making it at any time prior to the declaration of the result. Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has, on a show of hands or by voice or count of votes received as electronic records, been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Fund shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.

23.5.4 If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

23.5.5 A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken immediately. A poll demanded on any other question shall be taken in such manner and either forthwith or at such time and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.

23.5.6 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.

23.5.7 On a poll, votes may be cast either personally or by proxy. Where a poll is taken, votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy and voting.

23.5.8 A person entitled to more than one vote on a poll need not use all his votes or cast all the votes he uses in the same way.

23.5.9 In the case of an equality of votes at a meeting of Shareholders, whether on a show of hands or by voice or count of votes received as electronic records or on a poll, the chairman

of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.

23.5.10 In the case of joint holders of a Share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the register of Shareholders in respect of the joint holding.

23.5.11 No Shareholder shall, unless the Board otherwise determines, be entitled to vote at any meeting of Shareholders unless all calls or other sums presently payable by him in respect of Shares in the Fund have been paid.

### 23.6 Proxies

23.6.1 A Shareholder may exercise the right to vote either by being present in person or by proxy. The instrument appointing a proxy shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, either under its seal or executed by an officer, attorney or other person authorised to sign the same.

23.6.2 Any Shareholder may appoint a proxy for a specific meeting of Shareholders, and adjournments thereof, or may appoint a proxy for a specified term, by serving on the Fund at the registered office, or at such place or places as the Board may otherwise specify for the purpose.

23.6.3 Subject to this Article, the instrument appointing a proxy together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the registered office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) at least twenty-four (24) hours prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll, or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.

23.6.4 Instruments of proxy shall be in any common form or in such other form as the Board may approve and the Board shall send out with the notice of any meeting or any resolution in writing, forms of instruments of proxy for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

### 24. Appointment and Removal of Directors

24.1 The number of Directors shall be not less than two (2) or such numbers as the Fund may, by Ordinary Resolution, determine and, subject to the Act and this Constitution, the Directors shall be elected or appointed by Ordinary Resolution and shall serve for such term as may be determined, or in the absence of such determination, until the termination of the next annual meeting following their appointment.

24.2 The Fund may, by Ordinary Resolution, increase the maximum number of Directors. Any one or more vacancies in the Board not filled by the Shareholders at any meeting of the Shareholders shall be deemed casual vacancies for the purposes of this Constitution. Without prejudice to the power of the Fund by Ordinary Resolution in pursuance of any of the provisions of this Constitution to appoint any person to be a Director, the Board, so long as a quorum of Directors remains in

office, shall have power at any time and from time to time to appoint any individual to be a Director so as to fill a casual vacancy.

24.3 A Director shall hold office until removed by way of Special Resolution or ceasing to hold office pursuant to the Act.

## 25. Resignation and Disqualification of Directors

25.1 The office of a Director shall be vacated upon the happening of any of the following events:

25.1.1 if he resigns his office by notice in writing delivered to the registered office or tendered at a meeting of the Board;

25.1.2 if he becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that his office is vacated;

25.1.3 if he becomes bankrupt under the laws of any country;

25.1.4 if he is prohibited by law from being a Director; or

25.1.5 if he ceases to be a Director by virtue of the Laws or is removed from office pursuant to this Constitution.

## 26. Alternate Directors

26.1 A Director may appoint any person (including another Director) to be his alternate director (an "Alternate Director") and can terminate such appointment. Any appointment or removal of an Alternate Director by a Director shall be effected by delivery of a written notice of appointment or removal to the secretary at the registered office, signed by such Director, and such notice shall be effective immediately upon receipt or on any later date specified in that notice. Any Alternate Director may be removed by resolution of the Board. Subject as aforesaid, the office of Alternate Director shall continue until the next annual election of Directors or, if earlier, the date on which the relevant Director ceases to be a Director. An Alternate Director may also be a Director in his own right and may act as alternate to more than one Director.

26.2 An Alternate Director shall be entitled to receive notices of all meetings of Directors, to attend, be counted in the quorum and vote at any such meeting at which any Director to whom he is alternate is not personally present, and generally to perform all the functions of any Director to whom he is alternate in his absence.

26.3 Every person acting as an Alternate Director shall (except as regards powers to appoint an alternate and remuneration) be subject in all respects to the provisions of this Constitution relating to Directors and shall alone be responsible to the Fund for his acts and defaults and shall not be deemed to be the agent of or for any Director for whom he is alternate. An Alternate Director may be paid expenses and shall be entitled to be indemnified by the Fund to the same extent mutatis mutandis as if he were a Director. Every person acting as an Alternate Director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). The signature of an Alternate Director to any resolution in writing of the Board or a committee of the Board shall, unless the terms of his appointment provides to the contrary, be as effective as the signature of the Director or Directors to whom he is alternate.

## 27. Directors' Remuneration and Expenses

27.1 The amount, if any, of Directors' remuneration and fees shall from time to time be determined by Ordinary Resolution, or in the absence of such a determination, by the Board.

27.2 Each Director may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted pursuant to this Constitution or meetings of Shareholders and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Fund's business or in the discharge of his duties as a Director.

**28. Directors' Interests**

28.1 A Director may hold any other office or place of profit with the Fund (except that of auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefore (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other article.

28.2 A Director may act by himself or his firm in a professional capacity for the Fund (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.

28.3 Subject to the provisions of the Act, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Fund or in which the Fund is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Fund or in which the Fund is interested; and such Director may

28.3.1 vote on any matter relating to the transaction provided he, so long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Act;

28.3.2 attend a meeting of Directors at which a matter relating to the transaction arises and be included among the directors present at the meeting for the purpose of a quorum;

28.3.3 sign a document relating to the transaction on behalf of the Fund; and

28.3.4 do any other thing in his capacity as a Director in relation to the transaction, as if the Director were not interested in the transaction.

28.4 Subject to the Act and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

**29. Powers and Duties of the Board**

29.1 Subject to the Act, this Constitution and to any directions given by the Fund, the Board shall manage the business and affairs of the Fund and may pay all expenses incurred in promoting and incorporating the Fund and may exercise all the powers of the Fund. No alteration of this Constitution and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given.

29.2 The Board may exercise all the powers of the Fund except those powers that are required by the Act or this Constitution to be exercised by the Shareholders.

29.3 The Board on behalf of the Fund may provide benefits, whether by the payment of gratuities or pensions or otherwise, for any person including any Director or former Director who has held any executive office or employment with the Fund and may contribute to any fund and pay premiums for the purchase or provision of any such gratuity, pension or other benefit, or for the insurance of any such person.

29.4 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Fund for such period and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Fund or the Fund may have against such Director for any breach of any contract of service between him and the Fund which may be involved in such revocation or termination. Any person so appointed

may receive such remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and either in addition to or in lieu of his remuneration as a Director.

### 30. Delegation of the Board's Powers

- 30.1 The Board may by power of attorney appoint any Fund, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Fund for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under this Constitution) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub- delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Fund.
- 30.2 The Board may entrust to and confer upon any committee of Directors, Director, Officer, employee or any other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions, but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.
- 30.3 The Board that delegates a power under this Article shall be responsible for the exercise of the power by the delegate as if the power had been exercised by the Board, unless the Board
- 30.3.1 believed on reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on Directors of the Fund by the Act and the Constitution; and
- 30.3.2 has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.

### 31. Proceedings of the Board

- 31.1 The Board may regulate its meetings as it thinks fit. The Directors may elect one of their number as chairperson of the Board and determine the period for which he is to hold office. Where no chairperson is elected, or where at a meeting of the Board, the chairperson is not present within fifteen (15) minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting.
- 31.2 A Director or, if requested by a Director to do so, an employee of the Fund, may convene a meeting of the Board by giving notice in accordance with this article. Such notice shall be sent to every Director who is in Mauritius, and the notice shall include the date, time, and place of the meeting and the matters to be discussed. An irregularity in the notice of a meeting is waived where all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or where all directors entitled to receive notice of the meeting agree to the waiver.
- 31.3 A meeting of the Board may be held either
- 31.3.1 by a number of the Directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- 31.3.2 by means of audio, or audio and visual, communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 31.4 A quorum for a meeting of the Board shall be fixed by the Board and if not so fixed shall be a majority of the Directors. No business may be transacted at a meeting of Directors if a quorum is not present.

- 31.5 Every Director shall have one vote. The chairperson shall not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he expressly dissents from or votes against the resolution at the meeting.
- 31.6 A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication in like form each signed or assented to by one or more directors.
- 31.7 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.
- 32. Net Asset Value**
- 32.1 The Net Asset Value of a Cell shall be the value of its Cellular Assets less all the Cellular Liabilities attributable to that Cell, calculated as determined by the Directors.
- 32.2 The assets of the Fund and/or Cell shall be deemed to include:
- 32.2.1 all cash in hand, on loan or on deposit, or on call including any interest accrued thereon;
  - 32.2.2 all bills, demand notes, promissory notes and accounts receivable;
  - 32.2.3 all bonds, time notes, shares, stocks, debentures, debenture stock, subscription rights, warrants, options and other investments and securities owned or contracted for by the Fund and/or the Cell other than rights and securities issued by it;
  - 32.2.4 all stock and cash dividends and cash distributions to be received and not yet received by it but declared payable to Shareholders of record on a date on or before the day as of which the Net Asset Value is being determined;
  - 32.2.5 all interest accrued on any interest-bearing securities owned by the Fund and/or Cell except to the extent that the same is included or reflected in the principal value of such security;
  - 32.2.6 all other Investments of the Fund and/or Cell;
  - 32.2.7 the expenses of the Fund and/or Cell in so far as the same have not been written off; and
  - 32.2.8 all other assets of the Fund and/or Cell of every kind and nature including prepaid expenses as valued and defined from time to time by the Board.
- 32.3 The assets of the Fund and/or the Cell shall be valued in accordance with the valuation policies and accounting principles and policies adopted by the Board with respect to each Cell.
- 32.4 Notwithstanding the foregoing, where at the time of any valuation any asset of the Fund and/or the Cell has been realised or contracted to be realised there shall be included in the assets of the Fund and/or the Cell in place of such asset the net amount receivable by the Fund in respect hereof provided that if such amount receivable is not payable until some future time after the time of any valuation the Board may make such allowance as they consider appropriate.
- 32.5 The liabilities of the Fund and/or the Cell shall be deemed to include all its liabilities and such provisions and allowances for contingencies (including tax) payable by the Fund. In determining

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

32.6 Any calculations made pursuant to this Constitution shall be made by or on behalf of the Board and shall (except in the case of manifest error) be binding on all persons.

### 33. Transaction Fees

33.1 The Fund shall be paid such fees as the Board may from time to time determine and in such form and manner as the Board may determine, including entry fees, exit fees, management fees and performance fees.

33.2 For the avoidance of doubt, the Transaction Fees shall not reduce the Capital Commitment or any Unfunded Commitment of a Shareholder.

33.3 Where any such Transaction Fees have been determined by the Board, the Board shall have the discretion to waive such Transaction Fees in such proportion as it deems fit.

### 34. Minutes

34.1 The Board shall cause minutes to be made and books kept for the purpose of recording:

34.1.1 all appointments of Officers made by the Board;

34.1.2 the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and

34.1.3 all proceedings and resolutions at meetings of the Shareholders, of the holders of the Cells, of the holders of any class of Shares, of the Board and of committees appointed by the Board or the Shareholders.

### 35. Officers

35.1 The Officers, who may or may not be Directors, may be appointed by the Board at any time.

35.2 Any person appointed pursuant to this Article shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Fund or the Fund may have against such Officer for any breach of any contract of service between him and the Fund which may be involved in such revocation or termination. Save as provided in the Laws or this Constitution, the powers and duties of the Officers of the Fund shall be such (if any) as are determined from time to time by the Board.

35.3 The provisions of this Constitution as to resignation and disqualification of Directors shall *mutatis mutandis* apply to the resignation and disqualification of Officers.

### 36. Secretary

36.1 The Secretary (including one or more deputy or assistant secretaries) shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any secretary so appointed may be removed by the Board. The duties of the Secretary shall be as prescribed under the Laws, together with such other duties as shall from time to time be prescribed by the Board.

36.2 A provision of the Act or this Constitution requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

### 37. Investment Manager

37.1 The Board may, subject to a prior Ordinary Resolution, appoint as Investment Manager any person, firm or corporation to manage the investment and reinvestment of the Investments and may entrust to and confer upon the Investment Manager so appointed any of the relevant



functions, duties, powers and discretions exercisable by them as Directors (other than the power to make calls or forfeit Shares) upon such terms and conditions, including the right to remuneration payable by the Fund, and with such powers of delegation and sub-delegation and such restrictions as they think fit and either collaterally with or to the exclusion of their own powers.

37.2 The Investment Management Agreement shall provide for the payment of the relevant fees to the Investment Manager.

#### 38. Administrator

38.1 The Board shall, with or without a prior Ordinary Resolution, appoint as Administrator any one or more persons, firms or corporations carrying on business in Mauritius to manage the Fund's administrative affairs and may entrust to and confer upon the Administrator so appointed any of the relevant functions, duties, powers and discretions exercisable by them as Directors (other than the power to make calls or forfeit Shares) upon such terms and conditions, including the right to remuneration payable by the Fund, and with such powers of delegation and sub-delegation and such restrictions as they think fit and either collaterally with or to the exclusion of their own powers.

38.2 Provided that the terms on which any such Administrator is appointed shall include the provision that the Administrator shall exercise any powers conferred on the Administrator pursuant to this Article in Mauritius and in particular that meetings at which such powers are exercised shall be held in Mauritius and any decisions taken and directions given by the Administrator shall be taken and given in Mauritius.

#### 39. NAV Calculating Agent

39.1 The Board and the Investment Manager will retain ultimate responsibility for the valuation of the Fund's assets.

39.2 The Board may appoint a NAV Calculating Agent any person, firm or corporation to perform various services for the Fund, including calculation of the Net Asset Value.

39.3 In calculating the net asset value, the NAV Calculating Agent shall be entitled to rely on valuations provided or attributed to any asset or liability by the Directors, Investment Manager, Administrator or other third party designated by the Fund.

#### 40. Register of Directors

40.1 The Secretary shall establish and maintain a register of Directors, which shall contain:

40.1.1 the full names and addresses of the Directors;

40.1.2 the date on which each person whose name is entered on the register was appointed as a Director; and

40.1.3 the date on which each person named as a Director ceases to be a Director.

#### 41. Register of Shareholders

41.1 The Secretary shall establish and maintain a register of Shareholders at the registered office which shall record the Shares issued by the Fund and which shall state

41.1.1 whether, under the Constitution or the terms of issue of the Shares, there are any restrictions or limitations on their transfer; and

41.1.2 the place where any document that contains the restrictions or limitations may be inspected.

41.2 The register of Shareholders shall state, with respect to each class of Shares

41.2.1 the names, in alphabetical order, and the last known address of each person who is, or has within the last seven (7) years been, a Shareholder;

- 41.2.2 where the Shares are held by a nominee, the names in alphabetical order and the last known addresses of the persons giving to the Shareholder instructions to exercise a right in relation to a Share either directly or through the agency of one or more persons;
- 41.2.3 the number of Shares of that class held by each Shareholder within the last seven (7) years; and
- 41.2.4 the date of any
- 41.2.4.1 issue of Shares to;
- 41.2.4.2 repurchase or redemption of Shares from; or
- 41.2.4.3 transfer of Shares by or to, each Shareholder within the last seven (7) years, and in relation to the transfer, the name of the person to or from whom the Shares were transferred.
- 41.3 In accordance with section 92 of the Act, the register of Shareholders of the Fund may be divided into 2 or more register kept in different places.
- 42. Accounts and records**
- 42.1 The Board shall keep such accounts and records as it considers necessary or desirable in order to reflect the financial position of the Fund and shall cause proper books of account to be kept with respect to all the transactions, assets and liabilities in accordance with the Laws and so as to enable the accounts of the Fund and/or the Cells to be prepared.
- 42.2 The Fund shall keep at its office the following records:
- 42.2.1 The Constitution;
- 42.2.2 Minutes of all meetings and resolutions of Shareholders within the last 7 years;
- 42.2.3 An interest register, unless dispensed;
- 42.2.4 Minutes of all meetings and resolutions of Directors and Directors' committees within the last 7 years;
- 42.2.5 Certificates given by Directors within the last 7 years;
- 42.2.6 The full names and addresses of the current Directors;
- 42.2.7 Copies of all written communications to all Shareholders or all holders of the same class of Shares during the last 7 years;
- 42.2.8 Copies of all financial statements for the last 7 completed accounting periods of the Fund;
- 42.2.9 The accounting records required by the Laws for the current accounting period and for the last 7 completed accounting periods of the Fund;
- 42.2.10 The share register required to be kept under the Act; and
- 42.2.11 The copies of instruments creating or evidencing charges.
- 42.3 The accounting records shall be kept at the registered office or at such place in Mauritius as the Board shall think fit, and no Shareholder other than a Director or Auditor or any Officer, accountant or other person whose duty requires and entitles him to do shall be entitled to inspect the books, account documents or writings of the Fund except as provided by the Act or authorised by the Board.
- 42.4 The Board shall ensure that, within 6 months after the balance sheet date of the Fund, financial statements are completed at its balance sheet date and dated and signed on behalf of the Board by 2 Directors.

#### 43. Audit

- 43.1 The Board shall cause the accounts of the Fund to be examined and the true and correct view of the profit and loss and the balance sheet to be ascertained by one or more Auditors at least once every year.
- 43.2 The Shareholders shall, at each Annual Meeting, appoint an Auditor to hold office until the next Annual Meeting. The duties of the Auditors shall be regulated in accordance with the Laws.
- 43.3 If an appointment of Auditors is not made at an Annual Meeting and a casual vacancy in the office of auditor is not filled within one month of the vacancy occurring, the Registrar of Companies in Mauritius may appoint an Auditor of the Fund for the current year and fix the remuneration to be paid to him by the Fund for his service.
- 43.4 The Directors may fill any casual vacancy in the office of Auditor, but while any such vacancy continues the surviving or continuing Auditor or Auditors (if any) may act.
- 43.5 Every Auditor shall have a right of access at all times to the books and accounts and vouchers of the Fund and as regards books, accounts and vouchers of which the originals are not readily available shall be entitled to rely upon copies thereof or extracts therefrom certified by the Fund's representatives, and shall be entitled to require from the Directors and the officers of the Fund such information and explanations as may be necessary for the performance of the duties of the Auditors, and the Auditors shall make a report to the Shareholders on the accounts examined by them, and on every balance sheet laid before the Fund in a Shareholders during their tenure of office in accordance with the Laws.
- 43.6 Every account of the Board when audited and approved by the Shareholders shall be conclusive except as regard any error discovered therein within three months of the approval.
- 43.7 No Auditor shall be appointed or removed except in accordance with the Laws.

#### 44. The Seal

- 44.1 The Board may authorise the production of a common Seal and one or more duplicate common Seals.
- 44.2 An imprint of the Seal shall be kept at the registered office. The Board shall provide for the safe custody of the seal.
- 44.3 Any document required to be under Seal or executed as a deed on behalf of the Fund may be:
- 44.3.1 executed under the Seal in accordance with this Constitution; or
  - 44.3.2 signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.
- 44.4 The Company may have one or more official Seals to be used outside Mauritius to affix to any deed or document to which the Company is a party in the overseas country or region concerned. Such Seal will be a facsimile of the common Seal with the addition on its face of the name of the country or the region where it is to be used.

#### 45. Dividends and Distributions

- 45.1 Subject to the Laws, the Board may authorize a distribution or declare dividend at such time and of such amount as it thinks fit, without the prior authorisation of Shareholders.
- 45.2 Management Shares shall not carry any right to dividends or other distributions, except on the winding up of the Fund in accordance with the Articles of the Constitution.
- 45.3 Dividends shall be payable to the Shareholders of a particular Cell in accordance with the following:

- 45.3.1 The Board may from time to time if they think fit pay such interim dividends on Shares of any particular Cell as appear to the Board to be justified by the profits attributable to that Cell;
- 45.3.2 No dividend shall be payable in respect of any Cell other than out of such funds of the relevant Cell as may be lawfully distributed as dividends;
- 45.4 Subject to the Constitution, the Board, in its discretion, may issue Shares to any Shareholders who have agreed to accept the issue of Shares, wholly or partly, in lieu of a proposed dividend or proposed future dividends.
- 45.5 Except insofar as this constitution provides otherwise and/or the rights attaching to, or the terms of issue of any Share otherwise provide:
- 45.5.1 All dividends or distributions shall be declared and paid according to the amounts paid or credited as paid on the Shares in respect of which the dividend or distribution is paid, but no amount paid or credited as paid on a Share in advance of calls shall be treated for the purposes of this Article as paid on the Share;
- 45.5.2 All dividends or distributions shall be apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend or distribution is paid.
- 45.6 The Directors may deduct from any dividend, distribution or other monies payable to any Shareholder all sums of money, if any, presently payable by him to the Fund on account of calls or otherwise in relation to the Shares of the Fund.
- 45.7 No dividend, distribution or other monies payable by the Fund on or in respect of any Share shall bear interest against the Fund.
- 45.8 Any dividend, distribution, interest, or other monies payable in cash in respect of Shares may be paid by cheque or postal or money order sent through the post directed to the registered address of the holder, or in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of Shareholders or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or postal or money order shall be made payable to the order of the person to whom it is sent.
- 45.9 Any one of the 2 or more joint holders may give effectual receipts for any dividends, distributions, bonuses, or other monies payable or property distributable in respect of the Shares held by them as joint holders.
- 46. Redemptions**
- 46.1 Subject to the Laws and to the provisions of this Constitution, the Board may, at its option redeem Cell Shares for the purpose of making distributions. For the purpose of such redemptions, each Cell Shareholder shall be deemed to have constituted and appointed the Investment Manager and each of its directors as its true and lawful agent to apply for, to accept and, if necessary, to sign any resolution or other document in relation to, any redemption of shares made pursuant to this Article, provided however that such redemption is made *pro rata* among all holders of Shares of the same class and that the Redemption Price is fair and reasonable.
- 46.2 In the case where the Shares being redeemed are certificated and such Cell Shares are redeemed without production by the Shareholder of the certificate(s) relating thereto (if applicable) the Board may (unless they decide to dispense with the production of the certificate(s)) deposit in a separate bank account the aggregate Redemption Price of the Shares so redeemed. Upon such deposit, the person whose Shares have been so redeemed shall have no interest in or claim against the Fund or its assets except the right to receive the monies deposited (without interest) upon surrender of the certificate(s) relating to the Shares so redeemed with such other document(s) as

may be required for the purposes of redemption (subject to any requisite official consents first having been obtained).

46.3 Upon redemption of the Shares being effected, such Shareholder shall cease to be entitled to any rights in respect thereof (except for the right to receive a dividend which has been declared in respect thereof prior to such redemption being effected) and the name of such Shareholder shall be removed from the register of Shareholders as regards such Shares and the redeemed Shares shall be available for re-issue where not cancelled and, until re-issue, shall form part of the unissued capital of the Fund.

46.4 Subject to the Laws and the provisions of this Constitution, the Redemption Price of Cell Shares shall be redeemed out of profits, gains or revenue, whether realised or unrealised and the paid up capital, the share premium account or any other reserves.

46.5 No Cell Shares shall be redeemable unless (i) they are fully paid, (ii) the Fund has made provision for adequate reserves so as to be able to establish that the Fund can pay its debts as they become due in the normal course of business, (iii) the Fund would meet the solvency test as prescribed by the Act immediately after such redemption, and (iv) the valuation of the assets and liabilities is reasonable.

46.6 Nothing shall prevent the Board from making a Distribution in Kind, should it be deemed that it is in the best interest of the Company or the Shareholder requests for same. Such Distribution in Kind upon redemption, of the Capital held by the Cell shall be done as per the NAV calculation and share value as per the Cellular Supplement.

#### 47. Service of Notices and Other Documents

47.1 Any notice or other document (including but not limited to a share certificate, any notice of a meeting of the Shareholders and any instrument of proxy) may be sent to, served on or delivered to any Shareholder by the Fund:

47.1.1 in person;

47.1.2 through the post (by airmail where applicable) in a letter addressed to such Shareholder at his address as appearing in the register of Shareholders;

47.1.3 by courier to or leaving it at the Shareholder's address appearing in the register of Shareholders;

47.1.4 by, where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an electronic record of it by electronic means, in each case to an address or number supplied by such Shareholder for the purposes of communication in such manner.

47.2 In the case of joint holders of a Share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed as sufficient service on or delivery to all the joint holders.

47.3 Any notice or other document shall be deemed to have been served on or delivered to any Shareholder by the Fund:

47.3.1 if sent by personal delivery, at the time of delivery;

47.3.2 if sent by post, forty-eight (48) hours after it was put in the post;

47.3.3 if sent by courier or facsimile, twenty-four (24) hours after sending;

47.3.4 if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an electronic record by electronic means, twelve (12) hours after sending; or

- 47.3.5 if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,
- and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Act and the provisions of this Constitution, or sent by courier, facsimile, email or as an electronic record by electronic means, as the case may be, in accordance with this Constitution.
- 47.4 Each Shareholder, and each person becoming a Shareholder for the Fund subsequent to the adoption of this Constitution by virtue of its holding or its acquisition and continued holding of a Share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a share certificate) may be provided by the Fund by way of accessing them on a website instead of being provided by other means.
- 47.5 Any notice or other document delivered, sent or given to a Shareholder in any manner permitted by this Constitution shall, notwithstanding that such Shareholder is then dead or bankrupt or that any other event has occurred, and whether or not the Fund has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered in respect of any Share registered in the name of such Shareholder as sole or joint holder unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the register of Shareholders as the holder of the Share, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the Share.
- 47.6 Save as otherwise provided, the provisions of this Constitution as to service of notices and other documents on Shareholders shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Fund or any Director, alternate Director pursuant to this Constitution.
- 48. Indemnity**
- 48.1 Subject to the provisions of this Article, every Indemnified Person shall be indemnified and held harmless out of the assets of the Fund against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Fund's business or in the discharge of his duties notwithstanding any defect in such appointment or election provided always that the indemnity contained in this article shall not extend to any matter which would render it void pursuant to the Act.
- 48.2 Every Indemnified Person shall be indemnified out of the assets of the Fund against all liabilities incurred by him by or by reason of any act done, conceived in or omitted in the conduct of the Fund's business or in the discharge of his duties in defending any proceedings (including but not limiting to court proceedings, arbitral proceedings) in which judgement or award or decision is given in his favour, or in which he is acquitted, or in connection with any application under the Act in which relief from liability is granted to him by the court or such decision making person or institution.
- 48.3 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to this Constitution in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Fund to reimburse the person making such payment or effecting such discharge.
- 48.4 Each Shareholder and the Fund agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Fund, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Fund provided however that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified

Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.

48.5 Subject to this Article, the Board may effect insurance for every Indemnified Person it may deem fit.

#### 49. Winding Up

49.1 Notwithstanding any other provisions of this Constitution, in the event of a winding up, the liquidator shall apply the assets of the Fund in accordance with the PCC Act and, in discharge of the claims of creditors, the assets shall be applied in accordance with the PCC Act and other applicable Laws.

49.2 If the Company shall be wound up, the liquidator shall discharge the liabilities attributable to each Cell out of the assets comprised in and attributable to such Cell and no recourse shall be had to the assets of another Cell to meet the liabilities of such Cell. Further, Non-Cellular Assets shall also not be taken into account by the liquidator for the satisfaction of the liabilities of each cell.

49.3 Liabilities not attributable to any Cell shall be discharged out of Non-Cellular Assets. The liquidator shall apply the assets of each Cell in satisfaction of creditors' claims attributable to each relevant Cell in such manner and order as he thinks fit, subject to prior charges whether fixed or floating, if any.

49.4 The holders of Shares not fully paid up shall only receive a proportionate share of their entitlement, being an amount paid to the Company in satisfaction of the liability of the Shareholders to the Company in respect of the Shares allotted to the holders of these Shares either under this Constitution or pursuant to the terms of issue of the Shares.

49.5 The liquidator may divide among Shareholders in specie the whole or any part of the assets of the Fund, and whether or not the assets shall consist of property of a single kind, and may for such purposes set such value as he deems fair upon any one or more class or classes of property, and may determine how such division shall be carried out as between the Shareholders. The liquidator may vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator shall think fit, and the liquidation of the Fund may be closed and the Fund dissolved, but no Shareholder shall be compelled to accept any Shares in respect of which there are liabilities.

#### 50. Applicable law

This Constitution shall be construed in accordance with and governed by the laws of Mauritius.

#### 51. Dispute Resolution

51.1 Should any dispute, controversy or claim arise out of this Constitution or the breach, termination or invalidity thereof (a "**Dispute**"), a meeting shall be convened in order to resolve such Dispute through *bona fide* negotiations. Such meeting may be conducted by any means, including in person, telephone or electronic means.

51.2 If a Dispute has not been resolved within 14 Business Days of the date of the meeting under Article 51.1, the matter shall be referred to arbitration by means of a notice of arbitration given by any party to the others ("**Arbitration Notice**").

51.3 A Dispute raised under an Arbitration Notice shall be referred to arbitration to a single arbitrator, agreed by the parties. If the parties are unable to agree upon the appointment of a single arbitrator, then a panel of three (3) arbitrators shall be constituted, whereby each party shall appoint one arbitrator and the third arbitrator shall be appointed by mutual agreement of the two (2) arbitrators appointed by the parties.

51.4 Save and expressly modified hereafter, the conduct of any arbitration proceedings arising hereunder shall be governed by the arbitration rules of the LCIA-MIAC Arbitration Centre and in respect thereof the following shall apply:

51.4.1 the place of arbitration shall be Mauritius;

- 51.4.2 the laws applicable to the arbitration shall be the law of Mauritius;
  - 51.4.3 the language to be used in the arbitration proceedings shall be English or French;
  - 51.4.4 the costs of arbitration shall be borne by the losing party; and
  - 51.4.5 the decision of the arbitrator shall be final, binding and enforceable on both parties and not subject to any appeal.
- 51.5 This Article constitutes a separate agreement which is severable from the remainder of this Constitution and shall remain in effect despite the invalidity of this Constitution for any reason.

The undersigned, the applicant of TreeD Investment Fund PCC, confirm that this document is the Constitution of TreeD Investment Fund PCC.



Name: Druvnath Damry

For and on behalf of Premier Financial Services Limited as Secretary

Dated: 13 September 2023

This document is a true & correct copy of  
..... CONSTITUTION .....  
dated 13/09/2023 ..... and filed on .....  
regarding the company TreeD .....  
Investment Fund PCC .....  
Date 28/12/2023 .....  
Duty: R. 500/- ..... CB No. ....  
Registrar of Companies

