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## DEPOSITARY & PAYING AGENT AGREEMENT

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This Agreement is made on 29<sup>th</sup> May 2019 with effective date as of date of incorporation of the RAIF (i.e. 10<sup>th</sup> May 2019) and made:

### BETWEEN

1. **BUILDIM**, an investment company with variable capital and set up as a corporate partnership limited by shares (*société en commandite par actions*) (the "Fund") incorporated and existing in accordance with Luxembourg laws, with its registered office at 25C, Boulevard Royal, L-2449, Grand Duchy of Luxembourg, registered with the Luxembourg Trade and Companies' Register (the "RCS") under registration number B234682 duly represented by its general partner, **Buildim Fund Management**, incorporated and existing in accordance with Luxembourg laws, with its registered office at 25C, Boulevard Royal, L-2449, Luxembourg, Grand Duchy of Luxembourg, registered with the Luxembourg Trade and Companies' Register (the "RCS") under number B234613, duly represented by its authorised signatories as mentioned below on the signature page.

hereinafter referred to as the "RAIF".

### AND

2. **EFG Bank (Luxembourg) S.A.**, incorporated in the form of a public limited company (*société anonyme*), with registered office located at 56, Grand-Rue, L-1660 Luxembourg, Grand Duchy of Luxembourg, registered with the R.C.S. under registration number B-113375, duly represented by its authorised signatories as mentioned below on the signature page,

hereinafter referred to as the "Bank" or the "Depositary".

### AND

3. **Fuchs Asset Management S.A.** incorporated in the form of a public limited company with registered office located at 47/49 Boulevard Prince Henri, L-1724, Grand Duchy of Luxembourg registered with the R.C.S. under registration number B-188359, duly represented by its authorised signatories as mentioned below on the signature page,

hereinafter referred to as the "AIFM".

The RAIF, the Bank and the AIFM referred to, individually, as a "Party" or, collectively, as the "Parties".

**WHEREAS:**

- A. The RAIF, set-up as an umbrella fund with multiples compartments, qualifies as a reserved alternative investment fund under the Luxembourg law of 23 July 2016 relating to reserved alternative investment funds (the "RAIF Law"), as may be amended from time to time, as more fully described in the articles the RAIF, as may be amended from time to time (the "Articles") and its issue document, as may be amended from time to time (the "Issue Document");
- B. The AIFM was appointed as the external alternative investment manager of the RAIF, in compliance with the RAIF Law and the AIFM Law;
- C. The RAIF has appointed **EFG Bank (Luxembourg) S.A.** as administrative and domiciliation agent (the "Administrative Agent") to be responsible for mainly, NAV calculation and accounting aspects of the RAIF and to perform certain duties as more fully described in the central administration agreement entered into between the RAIF and the Administrative Agent in the presence of the AIFM as of 29/05/2019 (the "Administration Agreement");
- D. The RAIF has appointed **EFG Bank (Luxembourg) S.A.** as registrar and transfer agent (the "Transfer Agent") to administer the Investors register and handle payments from and to Investors of the RAIF and to perform certain duties as more fully described in Transfer and Paying Agent agreement entered into between the RAIF and the Transfer and Agent as of 29/05/2019 (the "Transfer Agency Agreement");
- E. The RAIF contemplates to appoint **EFG Bank (Luxembourg) S.A.** as Depositary and Paying Agent of the RAIF; and
- F. The Bank has indicated its willingness to act in such capacity subject to and in accordance with the provisions hereinafter set forth.

**IT HAS BEEN AGREED AS FOLLOWS:**

**1. DEFINITIONS**

"2016 Law" means the law of 23 July 2016 on reserved alternative investment funds.

"Accounts" means the segregated accounts opened in the books of the Depositary in the name of the RAIF, or the AIFM acting on behalf of the RAIF, including the Financial Instruments and the Cash Accounts.

"Agreement" means this agreement as may be amended from time to time.

"AIFM" means FUCHS ASSET MANAGEMENT S.A.

"AIFMD" means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on alternative investment fund managers.

"AIFM Law" means the law of 12 July 2013 on alternative investment fund managers, as may be amended from time to time.

"AML Law" means the law of 12 November 2004 on the fight against money laundering and terrorism financing, as may be amended from time to time.

"Assets" means all assets of the RAIF including cash, Financial Instruments, debt instruments, and Other Assets of the RAIF eligible for investment under the 2016 Law that are held and/or administered for the account of the RAIF.

"Authorized Representative" means any person whose name is provided (from time to time) by the RAIF to the Depositary along with his/her signature, in form and substance satisfactory to the Depositary evidencing that such person is an Authorized Representative and is authorised to give Instructions and in respect of whom the Depositary has not received written notice from the RAIF that such authorisation has been revoked.

"Banking Institution" means an entity referred to in Article 19(3) of the AIFM Law.

"Cash Account" means the segregated account or, as the case may be, any of the accounts designated by the RAIF, or failing designation by the RAIF by the Depositary, opened with the Depositary in the name of the RAIF, *inter alia* for the purpose of crediting the Proceeds payable to, and debiting amounts payable by the RAIF pursuant to the terms of this Agreement.

"Correspondent(s)" means any entity (including the Depositary's subsidiaries and affiliates) selected with professional care and in good faith amongst professional service providers duly authorized to carry out their functions in the relevant jurisdictions, to which the Depositary has delegated all or part of its duties with respect to the custody/safekeeping (*conservation*) of assets of the RAIF pursuant to this Agreement.

"CSSF" means the *Commission de surveillance du secteur financier*, the Luxembourg supervisory authority.

"Financial Instruments" means all financial instruments of the RAIF that can be registered in a Financial Instrument Account opened in the Depositary's books and all financial instruments that can be physically delivered to the Depositary.

"Financial Instruments Account" means the segregated account or, as the case may be, any of the accounts designated by the RAIF, opened in the books of the Depositary in the name of the RAIF, or in the name of the AIFM acting on behalf of the RAIF,

pursuant to the Agreement, to hold fungible Financial Instruments and other Financial Instruments as defined by the law of 1 August 2001 on the circulation of Financial Instruments and other financial instruments, as amended.

**"Financial Instruments Rights"** means rights of the RAIF, accepted for the purposes hereof by the Depositary, with respect to Financial Instruments remitted to the Depositary, and that are held and/or administered by the Depositary.

**"Instruction(s)"** shall be deemed to mean written, e-mailed or fax instructions in respect of any of the Depositary's duties hereunder given by a duly Authorized Representative of the RAIF or an agent thereof, including, as the case may be, the AIFM in respect of the RAIF.

**"Investors"** means the shareholders of the RAIF, i.e. the limited partners and the General Partner.

**"Issue Document"** means the RAIF's issue document as may be amended from time to time.

**"Loss of Financial Instruments"** means a loss of Financial Instruments by the Depositary or by a third party when any of the following conditions is met:

- (i) a stated right of ownership of the RAIF is demonstrated not to be valid because it either ceased to exist or never existed;
- (ii) the RAIF has been definitively deprived of its right of ownership over the Financial Instrument;
- (iii) the RAIF is definitively unable to directly or indirectly dispose of the Financial Instrument.

**"Other Assets"** means all Assets which do not qualify as Financial Instruments or cash.

**"Proceeds"** means any moneys, in whatever currency, received by the Depositary, by virtue of this Agreement, on behalf of the RAIF, in respect of or in exchange for the Financial Instruments and transferred into the Cash Account.

**"RAIF"** means BUILDIM (including its compartment(s)).

**"Regulation 231/2013"** means the Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision Text with EEA relevance.

**"Shares"** means the shares of Investors in the RAIF.

**"SPV"** means any special purpose vehicle used by the RAIF or the AIFM on behalf of the RAIF for investment purposes.

"Third-Party Custodian" means any entity selected and appointed by the RAIF or the AIFM on behalf of the RAIF, which shall be entrusted with the safekeeping of such Other Assets of the RAIF.

Terms defined in the Issue Document and the Articles and not defined herein shall have the same meaning as provided therein, where they are not mutually exclusive.

Words importing the singular shall include the plural, and vice-versa, and words importing the masculine gender shall include the feminine and neuter genders, and vice-versa.

## 2. APPOINTMENT

The RAIF hereby appoints the Bank as depositary to the RAIF for (i) the cash monitoring; (ii) the safekeeping of Financial Instruments to be held in custody; and (iii) the supervision duties with respect to the Other Assets, to hold and/or administer the Assets and to render services in connection therewith pursuant to the terms and the conditions of this Agreement and the Bank hereby accepts such appointment subject to the terms of this Agreement.

## 3. ACCOUNTS

3.1. The Depositary shall establish and maintain in its books the following Accounts in favour of the RAIF:

3.1.1. The Depositary is entrusted with/holds in safe custody the Financial Instruments in the Financial Instruments Account(s) in the name of the RAIF or in the name of the AIFM acting on behalf of the RAIF for the administrative recording of any and all Financial Instruments;

3.1.2. The RAIF, or the AIFM on behalf of the RAIF, authorises the Depositary to open and keep in its books one or more Cash Account(s) in which the RAIF's cash will be held, in the manner and under the terms specified in this Agreement;

3.1.3. The RAIF, or the AIFM on behalf of the RAIF has to respect the following information protocol:

- (i) Provide the Depositary with information of all existing cash accounts opened in the name of the RAIF,
- (ii) Obtain from the Depositary prior written approval for the opening of cash accounts with other Banking Institutions,
- (iii) Provide the Depositary on an ongoing basis with a timely access to all information and documentation that are required by the Depositary to perform its cash monitoring duties.

3.1.4. At the RAIF's request or as may be necessary, other accounts may be opened and will be subject to the terms of the Agreement.

- 3.2. The RAIF and, as appropriate, the AIFM on behalf of the RAIF, agree to execute any additional documents and to provide promptly any documents and information or ensure that the Depositary has a timely access to all documents and information which the Depositary may reasonably request to facilitate the opening and maintenance of any accounts of the RAIF and more generally to enable the Depositary or as may be deemed convenient to the Depositary to fulfil its obligations in accordance with the terms of this Agreement. In the event of any inconsistency between the terms of the relevant additional document and the terms of this Agreement, this Agreement (including all agreements, procedures and other documents incorporated hereto by way of reference) shall prevail.
- 3.3. The Depositary will provide the RAIF and the AIFM with periodic statements or reports for the above mentioned Accounts and any other property the RAIF may acquire. The Depositary shall allow the RAIF, its auditors and the AIFM reasonable access to its records relating to the above mentioned Accounts, to the extent that such access does not contravene the Depositary's professional obligation of confidentiality.
- 3.4. The Depositary shall maintain, place and invest the Assets held in the Accounts pursuant to the Instructions as further described hereunder.

#### 4. HOLDING AND ADMINISTRATION OF ASSETS

- 4.1. All Assets (unless otherwise contractually negotiated) shall be entrusted with the Depositary for safekeeping. However, regarding Other Assets, the Depositary will merely verify the ownership of the RAIF or of the AIFM acting on behalf of the RAIF and maintain a record thereof.
- 4.2. Delegation and agency contractual relationship for execution of transactions concerning assets as the case may be being, neither entrusted to, nor kept in safe custody by, the Depositary:

- 4.2.1. The Depositary may, under its own responsibility and without being obliged to give any prior notification to the RAIF, delegate to a Correspondent (i) the safekeeping of Financial Instruments to be held in custody and (ii) the verification of ownership and the maintenance of a record with respect to Other Assets, in compliance with the provisions of the AIFM Law and the applicable guidelines of Regulation 231/2013.

In such a case, Assets shall be held by the Correspondent, segregated from its own assets and from the Depositary's own assets; it being understood that the Correspondent may maintain a common segregated account (so-called "omnibus account") for multiple RAIFs of the Depositary. The Depositary's liability shall not be affected by the aforementioned delegation, subject to the provisions hereinafter.

- 4.2.2. The RAIF or the AIFM may also instruct the Depositary to open accounts or relationships with registrar, brokers, money managers or other intermediaries or via fiduciary arrangements, in the name of the RAIF or invest into investment



funds or managed accounts on behalf of the RAIF. In such instance, these assets are not to be considered as being entrusted to, or kept in safe custody by the Depositary and the Depositary shall be authorised to request and impose any arrangements regarding trading authorisation and other form of authority in respect of such accounts as it deems appropriate to enable it to perform its supervision/oversight (*surveillance*) duties, including by the sending of the notice of agency contractual relationship/proxy in the form as attached hereto as Appendix I to this Agreement. The Depositary may refuse to open accounts or relationships with any proposed intermediary if it considers that it is not in a position to perform appropriately its supervision/oversight (*surveillance*) duties. For the avoidance of doubt for all accounts opened in the name of the RAIF or in the name of the AIFM acting on behalf of the RAIF with such third-party or via fiduciary arrangements, the Other Assets booked in such accounts are not entrusted to or kept in safe custody by the Depositary. Consequently, the RAIF acknowledges that the Depositary shall not be responsible for the custody/safekeeping (*conservation*) of such

- (i) Other Assets; or
- (ii) Financial Instruments which in accordance with applicable national laws are registered in the name of the RAIF or in the name of the AIFM acting on behalf of the RAIF with the issuer or its registrar and transfer agent; deposited with or remaining in any such accounts and shall as a result not be liable for any loss resulting from the liquidation, bankruptcy or insolvency of such intermediary in the absence of breach by the Depositary of its supervision/oversight (*surveillance*) obligations as further specified under Article 5.3 of this Agreement.

4.2.3. The Depositary shall exercise all due skill, care and diligence in the selection and the appointment of any Correspondent to whom it wants to delegate parts of its tasks, and keeps exercising all due skill, care and diligence in the periodic review and on-going monitoring of any Correspondent in respect of matters delegated to it and the Depositary hereby undertakes to take all reasonable care in selecting and retaining any such Correspondent.

4.2.4. The Depositary ensures that the Correspondent meets the following conditions at all times during the performance of the tasks delegated to it:

- (i) the Correspondent has the structures and the expertise that are adequate and proportionate to the nature and complexity of the Assets which have been entrusted to it;
- (ii) for custody tasks, the Correspondent is subject to effective prudential regulation, including minimum capital requirements, and supervision in the jurisdiction concerned and the Correspondent is subject to an external periodic audit to ensure that the Financial Instruments are in its possession;
- (iii) the Correspondent segregates the Assets from its own assets and from the assets of the Depositary; it being understood that the Correspondent may maintain an omnibus account for multiple RAIFs of the Depositary;
- (iv) the Correspondent complies with the general obligations and prohibitions applicable to the Depositary, to the extent required by the AIFM Law and

undertakes in particular to impose the same obligations and prohibitions to any of its own correspondents.

The Depository undertakes to provide, on a regular basis, details of any Correspondent appointed and, upon request, information on the criteria used to select the Correspondent and the steps envisaged to monitor the activities carried out by the selected Correspondent.

- 4.2.5. Notwithstanding Article 4.3.4 above, where the law of a third country requires that certain Financial Instruments be held in custody by a local entity and no local entities satisfy the delegation requirements set forth in the AIFM Law, the Depository may delegate its functions to such local entity only to the extent required by the law of the third country and only as long as there are no local entities that satisfy the aforementioned delegation requirements, subject to the following conditions:
- (i) the Investors must be informed that such delegation is required due to legal constraints in the law of the third country and of the circumstances justifying the delegation prior to their investment;
  - (ii) the RAIF or the AIFM on behalf of the RAIF, must instruct the Depository to delegate the custody of such Financial Instruments to such local entity.

As regards Article 4.3.5 (i), the RAIF commits that it shall ensure that such information is provided to the Investors prior to their investment, failing which the Depository shall be authorized to refuse such set-up.

The Depository undertakes to inform the AIFM and/or the RAIF if and when it becomes aware that the segregation is no longer sufficient to ensure the protection of the Assets from the insolvency of a Correspondent to whom safekeeping duties have been delegated.

- 4.3. For the avoidance of doubt, entrusting the custody of Financial Instruments to the operator of a Securities System and/or to a Central Depository as designated for the purpose of EU Directive 98/26/EC on settlement finality in payment and securities settlement systems or provisions of similar services by third-country securities settlement system shall not be considered to be a delegation of the Depository functions for the purpose of the above. Financial Instruments or Other Assets held by a Clearing System and or to a Central Depository will be held in accordance with the regulations and practices applicable to this Clearing System or Central Depository.
- 4.4. The Depository will only bring any legal actions against the agents or the Correspondents as referred to under Article 4.3.
- 4.5. Unless otherwise provided therein, bearer securities, deeds, notary deeds and other such original documentation shall be deposited in the vault of the Depository or of an agent designated to this effect by the Depository.
- 4.6. The RAIF, or the AIFM acting on behalf of the RAIF, undertakes that, where a prime broker has been appointed by the RAIF or the AIFM, as prime broker of the RAIF (the



“Prime Broker”), the Depositary is duly informed and that, from the date of such appointment and only after a prior approval of the Depositary Bank, an agreement is in place pursuant to which the Prime Broker will:

- (i) make available to the Depositary in particular a statement on a durable medium which contains at least the following information:
  - a) the value of the assets listed in Clause 4.9. below at the close of each Business Day;
  - b) details of any other matters necessary to ensure that the Depositary has up-to-date and accurate information about the value of Financial Instruments deposited with the Prime Broker.
- (ii) give a daily access to the records and segregated accounts maintained by the Prime Broker in accordance with the provisions of the AIFM Law.

4.7. The RAIF, or the AIFM acting on behalf of the RAIF, shall ensure that the statement referred to under Clause 4.8. shall be made available to the Depositary no later than the close of the next business day to which it relates and shall include:

- (i) the total value of assets held by the Prime Broker for the RAIF;
- (ii) the value of each of the following:
  - a) cash loans made to the RAIF and accrued interest;
  - b) securities to be redelivered by the RAIF under open short positions entered into on behalf of the RAIF;
  - c) current settlement amounts to be paid by the RAIF under any futures contracts;
  - d) short sale cash proceeds held by the Prime Broker in respect of short positions entered into on behalf of the RAIF;
  - e) cash margins held by the Prime Broker in respect of open futures contracts entered into on behalf of the RAIF;
  - f) market-to-market close-out exposures of any OTC transaction entered into on behalf of the RAIF;
  - g) total secured obligations of the RAIF against the Prime Broker; and
  - h) all other assets relating to the RAIF;
- (iii) the value of Other Assets held as collateral by the Prime Broker in respect of secured transactions entered into under a prime brokerage agreement;
- (iv) the value of the assets where the Prime Broker has exercised a right of use in respect of the RAIF's assets;
- (v) a list of all institutions at which the Prime Broker holds or may hold cash for the RAIF in an account opened in the name of the RAIF or in the name of the AIFM acting on behalf of the RAIF in accordance with Article 19(3) of the AIFM Law.

4.8. In case a Prime Broker has been appointed by the RAIF/AIFM, the RAIF and the AIFM acknowledge that the Depositary shall not be responsible for the safekeeping of Assets held by the Prime Broker and shall as a result not be liable for any acts and/or omission of the Prime Broker selected and appointed by the RAIF, or the AIFM acting on behalf of the RAIF under Clause 4.8, or for the liquidation, bankruptcy or insolvency of any such Prime Broker.

## 5. POWERS AND DUTIES OF THE DEPOSITARY

The Depositary shall have and shall perform the following powers and duties:

### 5.1. Instructions

Except as otherwise provided for in this Agreement, all transactions involving the Assets and the Accounts shall be executed or settled solely in accordance with the Instructions.

Instructions may be given in connection with the settlement of transactions regarding Financial Instruments and Other Assets and the holding and/or administration of the Financial Instruments and Other Assets, and such other actions as are reasonably incidental thereto or to the services to be rendered by the Depositary hereunder, provided that at all times the Depositary may refrain from acting on any Instructions if it deems such Instructions to be outside the scope of this Agreement, infringes the RAIF Documents or Luxembourg law.

When taking action upon Instructions, the Depositary shall act in accordance with accepted banking practice.

When refraining from acting on Instructions, the Depositary shall forthwith notify the RAIF and the AIFM of the non-execution of the Instructions together with the reasons for not having executed the Instructions.

### 5.2. Safekeeping of Financial Instruments

5.2.1. The Depositary shall, within the limit provided for in the AIFM Law, be entrusted or keep in safe custody all Financial Instruments that can be registered on a Financial Instruments Account open in the Depositary's books and all Financial Instruments that can be physically delivered to the Depositary.

5.2.2. The Depositary shall keep its appropriate books and registers up-to-date and will identify, record, and keep segregated the Financial Instruments on behalf of the RAIF in the Financial Instruments Account from other assets held on its own account or on behalf of its other clients. Financial Instruments can therefore be, at any time, clearly identified as belonging to the RAIF.

5.2.3. Financial instruments of the RAIF which, in accordance with applicable national laws, are registered in the name of the RAIF, or in the name of the AIFM acting on behalf of the RAIF, with the issuer or its registrar and transfer agent shall not be entrusted to or held in safe custody by the Depositary and therefore, the Depositary's duties with respect to such assets shall be limited to its duties regarding Other Assets as set out in Article 5.3 below.

5.2.4. The Depositary shall ensure that:

- (i) Financial Instruments are properly registered in accordance with the AIFM Law;
- (ii) records and segregated Accounts are maintained in a way that ensures their accuracy, and in particular record the correspondence with the Financial Instruments and cash held for the RAIF;
- (iii) reconciliation are conducted on a regular basis between the Depositary's internal accounts and records and those of any Correspondent to whom custody functions are delegated in accordance with the AIFM Law;
- (iv) due care is exercised in relation to the Financial Instruments held in custody in order to ensure a high standard of investor protection;
- (v) all relevant custody risks throughout the custody chain are assessed and monitored and the RAIF and the AIFM are informed of any material risk identified;
- (vi) adequate organisational arrangements are introduced to minimise the risk of loss or diminution of the Financial Instruments, or of rights in connection with those Financial Instruments as a result of fraud, poor administration, inadequate registration or negligence;
- (vii) the RAIF's ownership right or the AIFM's ownership right on behalf of the RAIF, over the Financial Instruments is verified.

5.2.5. Accordingly, the Depositary shall have and perform, directly or through a Correspondent, the following powers and duties with respect to Financial Instruments that can be held in custody or capable of being physically delivered to the Depositary:

- (i) physical and book-entry securities: hold securities of the RAIF itself or through a Correspondent:
  - a) by physical possession of the share certificates or other instruments representing such securities in registered or bearer form; or
  - b) in book-entry form in a register of securities;
- (ii) registered securities: hold registered securities of the RAIF itself or through a Correspondent:
  - a) in the name of the Depositary as depositary of the RAIF or in the name of the RAIF's nominee, or in the name of a Correspondent or in the name of any nominee of the Correspondent; or
  - b) in so-called street certificate form;  
and in any case without any indication of fiduciary capacity.

5.2.6. Financial Instruments shall not be re-used by the Depositary or the Correspondent(s) without the prior consent of the RAIF or the AIFM acting on behalf of the RAIF. Such consent shall be given in writing in accordance with the provisions agreed upon the Parties as set out in the Service Level Agreement.

5.2.7. When the Depositary holds Assets in a fungible group with those belonging to other clients of the Depositary, the Depositary shall select Other Assets and/or Financial Instruments subject to partial redemption, partial payment or other actions relating to less than the total number of Other Assets and/or Financial

Instruments in the category concerned, in the non-discriminatory way the Depository usually carries out this selection. If the Other Assets and/or Financial Instruments held by a Correspondent become the object of partial redemption, partial payment or other action, the RAIF agrees to accept the selection method for the Other Assets and/or Financial Instruments concerned by the said partial redemption, partial payment or other action chosen by such Correspondent.

5.2.8. The Depository reserves the right to decline to accept to be entrusted with assets of the RAIF:

- (i) in countries other than those mentioned in the list provided by the Depository, as may be amended from time to time by the Depository; or
- (ii) when, in the opinion of the Depository, it would not be able to ensure the proper safekeeping; or
- (iii) for any other reason.

5.2.9. Registered securities held in the name of the Depository with a registrar for the benefit of the RAIF shall be accounted for in the relevant Financial Instruments Account and are deemed to be fungible securities for the purpose of this Agreement. The RAIF shall not have the right to specific Financial Instruments, but will instead be entitled, subject to other provisions of this Agreement, to require the Depository to deliver to the RAIF, or to a third party indicated by the RAIF, Financial Instruments of the same issue, class and denomination of Financial Instruments standing to the credit of any Financial Instruments Account of the RAIF. The Depository may, at any time, at its sole and full discretion and at the RAIF's expense, request the registrar to change the registration and register the assets in the name of the RAIF. To this effect, the RAIF hereby gives authority to the Depository to sign any document and do everything which is lawful, necessary or simply useful, on behalf of the RAIF, in order to achieve this change or registration. For the avoidance of doubt, any asset which is re-registered in the name of the RAIF shall be immediately struck off from the relevant Financial Instruments Account and is no longer considered as being entrusted to, or kept in safe custody by, the Depository.

5.3. Supervision duties with respect to Other Assets

5.3.1. Concerning the Other Assets, the role of the Depository shall be limited to the supervision, i.e. the verification of the ownership and the record keeping, in compliance with the requirements of the AIFM Law.

5.3.2. The Depository verification of the ownership of the RAIF, or of the AIFM acting on behalf of the RAIF, of such assets shall be limited to (i) information and documentation provided by the RAIF or of the AIFM acting on behalf of the RAIF or as the case may be external evidence in accordance with the procedures of the Service Level Agreement and (ii) the holding of sufficient and reliable information and documentation provided by the RAIF or the AIFM, or as the case may be, external evidence, to be satisfied of the RAIF, or of the AIFM acting on behalf of the RAIF, 's right of ownership;

- 5.3.3. The Depositary shall maintain and keep up-to-date a record identifying a list of Other Assets and their notional amount where the Depositary is satisfied of the RAIF's ownership, or the AIFM's ownership (acting on behalf of the RAIF), over these assets.
- 5.3.4. The Depositary shall ensure that the RAIF or the AIFM has and implements appropriate procedures to verify that the assets acquired by the RAIF are appropriately registered in the name of the RAIF, or in the name of the AIFM acting on behalf of the RAIF.
- 5.3.5. The Depositary shall also ensure the existence and implementation by the RAIF or the AIFM of procedures to check consistency between the positions in its records and the assets for which the Depositary is satisfied that the RAIF, or the AIFM acting on behalf of the RAIF, holds its ownership.
- 5.3.6. The RAIF or the AIFM shall ensure that the Depositary is provided, or has timely access, including by way of on-site visits, upon commencement of its duties and on an on-going basis, with all information and documentation it may reasonably require within the performance of the safekeeping of the Other Assets, including information and documents from third parties.
- 5.3.7. The RAIF or the AIFM will design and execute the appropriate reporting process from the relevant issuer or registrar to the Depositary or forward any confirmation or information statement to the Depositary within the time limits required to comply with the requirements of the Issue Document, the Articles, and good market practices.
- 5.3.8. For the avoidance of doubt, the Depositary will not perform any type of assets servicing in respect of the Other Assets and, notably, dividend, interest and redemption collection, corporate event notification and management, asset valuation (except if otherwise agreed).
- 5.3.9. In the event that any Other Asset is not or cannot technically be entrusted to, or kept in safe custody by the Depositary, the RAIF shall be authorized to select and appoint appropriate service providers duly authorized to carry out their functions in the relevant jurisdiction with respect to the safekeeping or the monitoring of the safekeeping of such Other Asset, as the case may be, either:
- (i) a Correspondent, in which case the relevant Correspondent selected by the RAIF will be deemed to be a Third-Party Custodian for the purpose of this Agreement; or
  - (ii) a Third-Party Custodian.

This appointment by the RAIF is subject to the following conditions:

- (i) the prior written information of the Depositary;
- (ii) appropriate contractual/operating arrangements have been agreed upon, beforehand, between all relevant parties involved, in order to enable the Depositary to carry out its supervision duties under Article 5.3 of this Agreement.

5.3.10. The RAIF acknowledges that the Depositary shall not be responsible for the safekeeping of the Other Assets referred to under Article 5.3.9 and shall as a result not be liable either for any acts and/or omission of any Correspondent or Third-Party Custodian selected and appointed by the RAIF under Article 5.3.9, or for the liquidation, bankruptcy or insolvency of any such Correspondent or Third-Party Custodian.

#### 5.4. Cash monitoring

5.4.1. The Depositary shall hold (or any Correspondent designated by the Depositary shall receive and hold to the order of the Depositary) all monies paid to the RAIF and shall deposit the same in a special Account or Accounts provided that the Depositary is authorised to hold any foreign currencies with banks or financial institutions in the respective countries of such currencies or to place these on a fiduciary basis with reputable financial institutions approved by the RAIF.

5.4.2. The Depositary or its Correspondent shall identify record and keep segregated the monies deposited in the Cash Accounts and the deposits on behalf of the RAIF from other cash accounts or deposits held on behalf of the Depositary's or Correspondent's own account and on behalf of its other clients.

5.4.3. The Depositary shall ensure a proper monitoring of the RAIF cash flows, and in particular that investors' monies and all cash belonging to the RAIF, or to the AIFM acting on behalf of the RAIF, have been received and booked correctly on the above mentioned Cash Account or a cash account opened with a Banking Institution.

5.4.4. Where a cash account is maintained or opened with a Banking Institution in the name of the RAIF, in the name of the AIFM acting on behalf of the RAIF or in the name of the Depositary acting on behalf of the RAIF (as the case may be), the RAIF, or the AIFM acting on behalf of the RAIF, shall ensure that the Depositary is provided, or has timely access, upon commencement of its duties and on an on-going basis, with all information and documentation that it may reasonably require within the performance of its cash monitoring duties; it being understood that the RAIF and, as the case may be the AIFM acting on behalf of the RAIF, agree, before any opening a cash account with a Banking Institution, (i) to firstly consider opening a cash account with the Depositary and, if not practicable (ii) to request the Depositary's prior written approval for the opening of this cash account with the Banking Institution.

5.4.5. In order to have access to all information regarding the cash accounts and have a clear view of all the RAIF's cash flows, the RAIF, or the AIFM acting on behalf of the RAIF, shall ensure and commits that the Depositary shall at least:

- (i) be informed upon its appointment, of all existing cash accounts opened in the name of the RAIF, or in the name of the AIFM acting on behalf of the RAIF, as the case may be;



- (ii) be informed at the opening of any new cash account by the RAIF, or by the AIFM acting on behalf of the RAIF, as the case may be;
- (iii) be provided with all information related to the cash accounts opened with a third party entity, directly by those third parties.

- 5.4.6. The Depositary shall ensure to receive, in a timely manner, accurate information on all accounts belonging to the RAIF and its subsidiaries, or the AIFM acting on behalf of the RAIF, and cash movements (at origin and on an on-going basis). It will be essential for the Depositary to receive without undue delay all above mentioned relevant information. The Service Level Agreement will define various information protocol and procedures that will put in place to ensure the timely and effective monitoring.
- 5.4.7. The Depositary shall implement effective and proper procedures to reconcile and monitor all cash flow movements and perform such reconciliations on a daily basis or, in case of infrequent cash movements, when such cash flow movements occur. Notably, the Depositary shall establish, implement and apply an appropriate and consistent procedure to:
- (i) reconcile the subscription orders with the subscription proceeds, and the number of Shares issued with the subscription proceeds received from the Investor;
  - (ii) reconcile the redemption orders with the redemption proceeds paid, and the number of Shares cancelled with the redemption proceeds paid;
  - (iii) verify on a regular basis that the reconciliation procedure is appropriate.
- 5.4.8. The Depositary shall implement effective and proper procedures to identify at close of business day significant cash flow and in particular those which could be inconsistent with the RAIF's and Depositary's operations. To that end, the Depositary shall be informed at the end of each business day of subscriptions and payments made by investors when the RAIF or its agents receive(s) payments.
- 5.4.9. The Depositary shall review periodically the adequacy of those procedures including through a full review of the reconciliation process at least once a year and ensuring that the Cash Accounts are included in the verification process.
- 5.4.10. The Depositary shall monitor on an on-going basis the outcomes of the reconciliations and, in compliance with the escalation procedure, actions taken as a result of any discrepancies identified by the reconciliation procedures and notify the AIFM if an irregularity has not been rectified without undue delay and also the competent authorities if the situation cannot be clarified and, as the case may be, or corrected.
- 5.4.11. The Depositary shall check the consistency of its own records of cash positions with those of the AIFM. The AIFM shall ensure that all instructions and information related to a Cash Account opened with a Banking Institution are sent to the Depositary, so that the Depositary is able to perform its own reconciliation procedure.

5.4.12. Upon receipt of Instructions, the Depositary shall directly or through a Correspondent, pay out the cash in its custody in the following cases only:

- (i) upon purchase by the RAIF of securities or other property against delivery of such securities or property to the RAIF or a Correspondent; provided that (a) the Depositary and a Correspondent may make payment for and accept delivery of securities in accordance with governmental regulations or generally accepted trade practice in the applicable local market, and (b) in case of offering of securities by issuers, payment may be made prior to delivery of securities where such payments are made in order to obtain allotments in such offerings, and except that in case of demand deposits, time deposits, call account deposits, currency deposits, and other deposits, contracts or options the Depositary may make payment therefor without receiving an instrument evidencing same;
- (ii) in connection with subscription, conversion, exchange, tender or surrender of securities as set forth herein;
- (iii) for payment of any expense or liability of the RAIF authorized for payment by the RAIF or any dividend declared by the RAIF;
- (iv) to Investors who have delivered to the RAIF's Transfer Agent a request for repurchase of their Shares of the RAIF;
- (v) to Investors in payments of dividends or other distributions in respect of the Shares, against surrender to the Depositary or the Transfer Agent or a paying agent of the RAIF on or after the dividend payment date of the appropriate dividend coupon or other evidence of entitlement in the case of bearer Shares; and to bearer share paying agents against delivery on or after the payment date of appropriate dividend coupons or other evidence of entitlement;
- (vi) for deposit in its name for the account of the RAIF in such Banking Institution, including a Correspondent, as the Depositary may from time to time be instructed by Instructions;
- (vii) in connection with making demand deposits, time deposits or call account deposits with the Depositary or with such Banking Institution and in such amounts as the Depositary shall be instructed by Instructions, whether or not instruments representing such deposits are to be issued and delivered to the Depositary, provided that the Depositary shall include in the records the Depositary maintains with respect to the assets of the RAIF appropriate records as to the amount and currency of each such deposit with the Depositary or each such Banking Institution and the maturity date and interest rate relating to each such deposit; or
- (viii) in connection with entering into foreign exchange contracts or options.

5.4.13. Unless otherwise agreed in writing between the Depositary and the RAIF, or the AIFM acting on behalf of the RAIF, any transaction to the debit of the Cash Account of the RAIF may, at the discretion of the Depositary, only be completed within the limits of the balance effectively available on the current Cash Account. In the event that the account shows a debit balance for any reason whatsoever, the Depositary is entitled to charge interest and fees at the rate

separately notified by the Depositary to the RAIF; and the Depositary may require appropriate security interest.

- 5.4.14. The Depositary shall collect, receive and deposit in the Cash Account(s) income, dividends, interest and other payments of whatever kind with respect to the Assets held by or to the order of the Depositary.
- 5.4.15. The Depositary shall receive and give receipt of all stock dividends, rights and other items of like nature pertaining to the Assets held by or to the order of the Depositary for the RAIF, shall execute ownership and other certificates and affidavits for all tax purposes in connection with dividends from Assets, setting forth in any such certificates or affidavits the name of the RAIF as owner of such Assets, and shall do all other things necessary or proper in connection with the collection, receipt and deposit of such income, dividends, interest or other payments to the RAIF, including but not limited to the presentation for payment of all coupons and other income items requiring presentation, the presentation for payment of all Assets which may be called, redeemed, retired or otherwise become payable, and the endorsement for collection in the name of the RAIF of all cheques, drafts or other negotiable or transferable instruments.
- 5.4.16. Upon receipt of Instructions and insofar as monies are available, the Depositary shall make or cause to be made payments out of the Assets only in the following circumstances:
- (i) in connection with the acquisition of Assets;
  - (ii) for the redemption of Shares, upon receipt of a request in the form (if any) required by the Articles and the Issue Document;
  - (iii) in connection with forward transactions in currency or other investment and hedging practices permitted under the investment and borrowing restrictions described in the Issue Document;
  - (iv) for the payment of dividends and other distributions to Investors;
  - (v) for payment of such bills, statements, taxes, advisory fees, Depositary fees or other obligations of the RAIF as may be approved by the General Partner or from time to time by specific Instructions to the Depositary; or
  - (vi) to the succeeding depositary upon termination of this Agreement.
- 5.4.17. Upon receipt of Instructions, the Depositary shall transfer, exchange or deliver any Asset, or shall cause the transfer, exchange or delivery of any Asset to be made for the account of the RAIF, only in the following circumstances:
- (i) in connection with the sale of such Asset and upon receipt of payment by or to the order of the Depositary or as shall be customary settling procedure in the relevant market place;
  - (ii) for the purpose of exercising any right whatsoever with respect to such Asset; or
  - (iii) to the succeeding depositary upon the termination of this Agreement.
- 5.4.18. The Depositary shall advise the RAIF or any agent so designated by the RAIF in writing of such procedures as may be mutually agreed upon between the RAIF and the Depositary of the disbursement of all monies, the receipt of all

securities, all stock and cash dividends, interest and other income and the receipt from all exchanges of Financial Instruments and, in general, shall keep the RAIF fully informed as to all actions of the Depositary taken or done pursuant to any Instructions from the RAIF to the Depositary as herein provided.

- 5.5. The Depositary shall transmit to the RAIF or the agent(s) so designated by the RAIF all pertinent information received by the Depositary from corporations or issuers of the Assets which are from time to time held in custody hereunder;
- 5.6. Upon receipt of Instructions, the Depositary shall vote and/or take such other necessary actions in respect of any Assets held hereunder.
- 5.7. The Depositary shall also perform additional oversight duties on the RAIF to ensure compliance with applicable laws and notably to:
  - (i) ensure that the sale, issue, repurchase and cancellation of Shares are carried out in accordance with the Luxembourg laws and regulations, the Articles and the Issue Document;
  - (ii) ensure that the value of the Shares is calculated in accordance with the Luxembourg laws and regulations, the Articles, the Issue Document and the valuation procedures adopted in respect of the RAIF and as provided in the Service Level Agreement, in accordance with the AIFM Law;
  - (iii) carry out Instructions provided such Instructions do not conflict with the Luxembourg law, the Issue Document and the Articles;
  - (iv) ensure that in transactions involving the Assets, the consideration is remitted to the RAIF within the usual time limits;
  - (v) ensure that the income of the RAIF is applied in accordance with the Luxembourg laws and regulations, the Articles and the Issue Document;  
 In performing the tasks above, the Depositary shall perform ex-post controls and verifications of processes and procedures that are under the responsibility of the AIFM, the RAIF or an appointed third-party and the details of which are described in the Service Level Agreement;
  - (vi) obtain from the transfer agent and paying agent all necessary information related to the transactions with the Shares.

The RAIF/AIFM shall provide the Depositary, upon commencement of its duties and on an on-going basis, with all relevant information it needs in order to comply with its obligations pursuant to the AIFM Law, including information to be provided to the Depositary by third parties. The RAIF/the AIFM shall particularly ensure that the Depositary is able to have access to the books and perform on-site visits on premises of the RAIF/the AIFM and of those of any service provider appointed by the RAIF or the AIFM (as the case may be) such as the Administrative Agent or external valuers and, as the case may be, or to review reports and statements of recognised external certifications by qualified independent auditors or other experts in order to ensure the adequacy and relevance of the procedures in place. The details of such information will be provided in the Service Level Agreement.

## 5.8. General rules applicable to the safekeeping duties and supervision duties

### 5.8.1. Look through principle and exception

The Depositary's duties shall apply on a look-through basis to underlying Assets held by financial structures and, as the case may be, or legal structures controlled directly or indirectly by the RAIF, or the AIFM acting on behalf of the RAIF, provided that such requirement shall not apply to funds of funds structures or master-feeder structures where the underlying funds have a depositary which keeps safe the assets of these funds.

For the avoidance of doubt, the Depositary's safekeeping and supervision duties shall apply on a look-through basis to the monitoring of cash which is treated as an Other Asset in this regard.

### 5.8.2. Country and Asset lists

As regards the Depositary's safekeeping and verification of ownership duties, the Parties agree and acknowledge that the RAIF shall proceed to investments in Assets located in the countries as set out in the Issue Document and as listed in the Service Level Agreement.

Such list may be amended from time to time by adding and/or withdrawing countries therefrom in compliance with the relevant procedure agreed upon the Parties as set out in the Service Level Agreement.

### 5.8.3. Escalation procedures

Each of the AIFM and the Depositary have set up and implemented an escalation procedure for situation where a breach, an anomaly or potential or actual irregularities (including with respect to its oversight duties as provided for under Article 5.9.11) or a calculation gap are detected.

In case the escalation procedure is triggered by either the AIFM or the Depositary, the Party having triggered the escalation procedure shall inform the other Party about any irregularities detected by internally or detected by other parties.

The Administrative Agent shall inform the Depositary and the AIFM about any NAV error calculation, any breach of investment limits, and shall provide with the calculation details on the impact and the remedial action plan.

The notified/notifying Party shall:

- Investigate the cause, scope and importance of the issue,
- Inform the AIFM and relevant parties if it is not already done (e.g. Administrative Agent, Prime Broker, Auditor, Delegates, etc.),



- Take steps in order to remedy the issue and inform the other Party of the results of its actions.

In case of failure by the notified Party to take adequate measures for remedying in a reasonable time frame, the other Party shall inform the CSSF.

The details of such escalation procedure are available in the Service Level Agreement. Such escalation procedure shall be transmitted to the CSSF or any other competent authority upon request and be reconsidered on a yearly basis to ensure that it is adequately scaled to the activity of the RAIF and AIFM and that all issues are properly reported to the relevant persons and solved in a timely manner.

## 5.9. Due Diligence obligations of the Depositary

- 5.9.1. The Depositary should have knowledge at all times as to how the Assets have been invested and where these Assets are available.
- 5.9.2. The Depositary will act in a supervisory role to ensure that the engaged parties have carried out reasonable steps in acquiring, disposing, or managing Assets on an on-going basis.
- 5.9.3. The Depositary has a “best effort obligation” (*obligation de moyens*) and not a strict liability obligation (*obligation de résultat*) with respect to the supervision of the Assets. The Depositary shall therefore exercise reasonable effort in the accomplishment of its duties.
- 5.9.4. The RAIF, or the AIFM acting on behalf of the RAIF, is obliged to keep the Depositary updated on any changes to the RAIF’s structure. The Depositary should also be provided with the relevant documentation, including the resolutions taken by the management of the RAIF in relation to any of corporate events of the RAIF or affiliated entities that may affect the legal structure or the ownership structure of the RAIF.
- 5.9.5. The RAIF, or the AIFM acting on behalf of the RAIF, shall provide the Depositary with original documentation such as deeds, notary acts, Investors registers, etc. where possible or certified copies in the absence thereof.
- 5.9.6. The RAIF, or the AIFM acting on behalf of the RAIF, shall provide the Depositary with all documents, due diligence information, appraisals, opinions of counsel or experts related to any investments.
- 5.9.7. The RAIF, or the AIFM acting on behalf of the RAIF, shall provide the Depositary with a memorandum describing the financing of the transaction and security interests granted (if any).
- 5.9.8. On a regular basis, the Depositary shall re-assess or seek reconfirmation of the ownership structure of the RAIF.



- 5.9.9. The RAIF, or the AIFM acting on behalf of the RAIF, shall provide to the Depositary access to all the information and documentation necessary or convenient in order to fulfil its duties.
- 5.9.10. The Depositary may appoint whenever it will judge necessary any legal, financial, real estate or other experts to perform its due diligence obligation and comply with its obligations under this Agreement. The costs of which will be reimbursed to the Depositary by the RAIF based on duly evidenced documents. The RAIF and/or the AIFM will always be informed in advance of such procedure and will receive the opportunity to fulfil its/their obligations whenever appropriate.
- 5.9.11. The due diligence procedures are fully detailed in the Service Level Agreement established for the RAIF.
- 5.9.12. The Depositary has procedures in place to appropriately monitor its various processes and obligations towards the RAIF.
- 5.9.13. The Service Level Agreement details all workflow and procedures between the RAIF, the AIFM and the Depositary.
- 5.10. Prevention of money laundering and terrorism financing
- 5.10.1. The Parties agree that the Depositary will implement for its own benefit the measures it deems necessary or appropriate in the context of prevention of money laundering and terrorism financing activities, in accordance with the applicable laws and regulations (including, for the avoidance of doubt, the CSSF circulars, guidelines or instructions) regarding prevention of money laundering and terrorism financing activities.
- 5.10.2. The RAIF acknowledges and agrees that the Depositary shall, as a rule, not accept subscription monies when such monies are debited – or to be debited – from an account opened in the prospective investor's name (i) with a credit institution or professional of the financial sector that is not covered by the obligations foreseen in the Council Directive 2015/849/EC of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended, or (ii) with a credit institution or financial institution situated in a third country that the Depositary deems, on a discretionary basis, as not imposing equivalent requirements to those laid down by the applicable laws and regulations (including, for the avoidance of doubt, the CSSF circulars, guidelines or instructions) regarding prevention of money laundering and terrorism financing activities.
- 5.10.3. The RAIF acknowledges and agrees that the Depositary may be obliged to cooperate with, or respond to, any legal request from the Luxembourg authorities in charge of the enforcement of anti-money laundering and terrorism laws. The Depositary is also obliged to cooperate with Luxembourg

authorities in charge of the fight against money laundering and terrorism in providing these authorities, upon their request, with all necessary information in application of the procedures requested under the relevant legislation as well as in informing, on its own initiative, the Public Prosecutor to the District Court of Luxembourg ("*Tribunal d'Arrondissement*") and the CRF (*cellule de renseignement financier*) of an act potentially constituting money laundering or terrorism financing and the RAIF acknowledges and agrees that the Depositary shall not inform the RAIF in such circumstances.

5.10.4. The RAIF acknowledges and agrees that the Depositary shall, as a rule, not accept instructions of payment to Investors (e.g. redemption of Shares or dividends) that would not be made to the same account from where the subscription monies have been received.

## 6. LIABILITIES

- 6.1. Subject to the terms hereof, the Bank, acting as Depositary, shall use all reasonable care in the performance of its duties under this Agreement or contained in Instructions. Nothing herein shall obligate the Depositary to perform any obligation or to allow, take or omit taking any action, which will breach any law, rule, regulation or practice.
- 6.2. The Parties expressly agree that the obligations of the Depositary under this Agreement are to be considered as a best effort obligation ("obligation of means") except for Loss of Financial Instruments held in custody by the Depositary or any Correspondent which are subject to a strict liability obligation ("obligation of results"), save as provided hereunder.
- 6.3. The Depositary shall indemnify the RAIF and hold the RAIF harmless from any loss or liability incurred by the RAIF as a direct consequence of negligence or intentional failure on the part of the Depositary, except when such loss or liability results from a Loss of Financial Instruments, in which case Article 6.7 shall apply.

In this absence of negligence or intentional failure on its part, the Depositary shall not be liable to the RAIF or any other person with respect to any act or omission in connection with the services provided hereunder. Under no circumstances shall the Depositary be liable to the RAIF or any other person for indirect or consequential damages and the Depositary shall not in any event be liable for the following direct losses: loss of profits, loss of contracts, loss of goodwill, whether or no foreseeable, even if the Depositary has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

- 6.4. Without limitation to the foregoing:
  - (i) any recovery of funds or other assets paid or distributed with respect to Financial Instruments will be carried out at the RAIF's risks and costs;
  - (ii) the Depositary will not be liable for :

- a) any loss suffered by the RAIF in case of failure to notify the RAIF of any payment of dividends, interest or any redemption, preferential share right or other distribution made with respect to the Financial Instruments; or
- b) any present or future corporate action with respect to the Financial Instruments;  
if it has not been directly advised by the issuer of the Financial Instruments or a Correspondent of any such action or by the entity duly appointed by the RAIF or the AIFM to inform the Depository of any such payment, right or other action as referred above;
- (iii) the Depository shall not be liable for any damage resulting from any action taken in good faith upon Instructions, provided the Depository has complied with the provisions set out in Article 5.1.

6.5. The Depository shall not be liable for any loss resulting from the choice of investment made in compliance with the Instructions unless the Depository is negligent or responsible of wilful misconduct.

6.6. The Depository shall have no liability for losses incurred by the RAIF that are caused by an event of force majeure and where all the following conditions are met:

6.6.1. the event which led to the loss is not the result of any act or omission of the Depository or a third party to whom the custody of Financial Instruments held in custody in accordance with point (a) of Article 19(8) of the AIFM Law has been delegated;

6.6.2. the Depository could not have reasonably prevented the occurrence of the event which led to the loss despite adopting all precautions incumbent on a diligent Depository as reflected in common industry practice;

6.6.3. Despite rigorous and comprehensive due diligence, the Depository could not have prevented the loss. This condition may be deemed fulfilled when the Depository has ensured that the Depository and the third party to whom the custody of Financial Instruments held in custody in accordance with point (a) of Article 19(8) of the AIFM Law has been delegated have taken all of the following actions:

- (i) establishing, implementing, applying and maintaining structures and procedures and insuring expertise that are adequate and proportional to the nature, scale and complexity of the RAIF in order to identify in a timely manner and monitor on an on-going basis external events which may result in loss of a Financial Instrument held in custody;
- (ii) assessing on an on-going basis whether any of the event identified under the first indent presents a significant risk of loss of a Financial Instrument;
- (iii) informing the AIFM of the significant risk identified and taking appropriate actions, if any, to prevent or mitigate the loss of Financial Instruments held in custody, where actual or potential external events have been identified which are believed to present a significant risk of loss of a Financial Instrument held in custody.

## 6.7. Loss of Financial Instruments held in custody

- 6.7.1. In case of Loss of a Financial Instrument held in custody by the Depositary or any Correspondent, the Depositary shall return a Financial Instrument of identical type or the corresponding amount to the RAIF or the AIFM acting on behalf of the RAIF, without undue delay, in compliance with the AIFM Law.

The Depositary shall not be liable if it can prove that such Loss has arisen as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary.

Specifications as regards the Loss of Financial Instruments and the relevant actions to be taken are set out in the Service Level Agreement.

- 6.7.2. The Depositary is discharged from its liability towards the RAIF and the Investors, in case of Loss of Financial Instruments, provided that the following conditions are cumulatively met:
- (i) the relevant Financial Instruments are held in custody by a Correspondent;
  - (ii) all requirements relating to the delegation of the custody tasks set out in the AIFM Law are met;
  - (iii) a written agreement between the Depositary and the Correspondent expressly transfers the liability of the Depositary to that Correspondent and enables the RAIF or the AIFM acting on behalf of the RAIF, to make a claim against the Correspondent in respect of the Loss of Financial Instruments or for the Depositary to make such claim on their behalf; and
  - (iv) a written agreement between the Depositary and the RAIF, or the AIFM acting on behalf of the RAIF, expressly allows a discharge of the Depositary's liability and established the objective reason to contract such discharge.

The Parties hereby agree that the Depositary may have a discharge of its liability, subject to the aforementioned conditions, and that the following will constitute objective reasons of such discharge:

- (i) the RAIF or the AIFM insists on maintaining an investment in a particular jurisdiction despite warnings by the Depositary as to the increased risk this presents;
  - (ii) the Depositary had no other option but to delegate its custody duties to a Correspondent;
  - (iii) the AIFM considers that it is in the best interest of the RAIF and its investors for the Depositary to discharge its liability and has notified the Depositary of that assessment in writing;
  - (iv) any other objective reason provided in the Service Level Agreement.
- 6.7.3. Where the law of a third country requires that certain Financial Instruments are held in custody by a local entity and there are no legal entities that are subject to effective prudential regulation and supervision as well as external periodic

audit, the Depositary can discharge itself from its liability towards the RAIF and the Investors, in case of Loss of Financial Instruments, subject to the following conditions:

- (i) the Articles and the Issue Document expressly allow for such a discharge under the conditions of this Article;
- (ii) the Investors have been fully informed of that discharge and of the circumstances justifying the discharge prior to their investment;
- (iii) the RAIF, or the AIFM acting on behalf of the RAIF, instructed the Depositary to delegate the custody of such Financial Instruments to a local entity;
- (iv) there is a written agreement between the Depositary and the Correspondent, which expressly allows such discharge;
- (v) there is a written agreement between the Depositary and the Correspondent that expressly transfers the liability of the Depositary to that local entity which enables the RAIF, or the AIFM acting on behalf of the RAIF, to make a claim against that local entity in respect of the Loss of Financial Instruments or for the Depositary to make such claim on their behalf.

## 7. RIGHTS OF THE DEPOSITARY

The Depositary shall have the following rights:

### 7.1. To be informed

The RAIF and the AIFM shall provide the Depositary upon commencement of its duties and on an on-going basis with all relevant information it needs in order to comply with its obligations hereunder and pursuant to the AIFM Law.

The RAIF and/or the AIFM shall deliver to the Depositary, within a reasonable time frame in order for the Depositary to review prior to finalisation (i.e. before submission for approval to any supervisory authority) thereof, a draft of any Articles, Issue Document update or addendum, letter to Shareholders, voting materials to be sent to Shareholders, proposed amendment to the Articles, the Issue Document or to any material contract entered into by the RAIF and/or the AIFM acting on behalf of the RAIF (each a "RAIF Document"). For the avoidance of doubt, the review of the RAIF Documents performed by the Depositary will primarily be carried out to determine the operational achievability of the process described in those documents, the compliance of the amendments with the Depositary's internal policies and procedures and to verify the description of the scope of duties and liabilities of the Depositary. The RAIF is the sole responsible for the content and accuracy of the RAIF Documents. Any alteration to, or amendment of, any RAIF Document shall not be effective against the Depositary if it affects the manner in which it performs its duties under this Agreement, unless the Depositary has given its prior written approval thereto. The RAIF and the AIFM, each individually, hereby undertakes that no such RAIF Document will be finalised, issued, registered or distributed unless and until all necessary regulatory consents and authorisations of any jurisdiction have been obtained.

The RAIF, the AIFM and the Depositary shall agree on procedures, as appropriate in the Service Level Agreement, to be complied with and ensuring that the Depositary, in respect of its duties hereunder, has the ability to enquire into the conduct of the AIFM, the RAIF and their service providers and to assess the quality of information transmitted including by way of having access to the books of the AIFM, the RAIF and their service providers or by way of on-site visits; is informed of any amendment to the RAIF's materials; that the RAIF and the AIFM put in place appropriate arrangements with the intermediary structures to enable the Depositary to perform its duties in accordance with the AIFM Law.

In particular, in case the RAIF holds movable Assets, the AIFM shall allow the Depositary or any of its agents (i) to make on-site visits to the AIFM premises or any other locations whether those Assets are located at least once a year in order to verify the existence of those Assets, subject to compliance with local legislation and (ii) to automatically provide a copy of any agreements entered into by the RAIF or the AIFM acting on behalf of the RAIF with the entity to which custody was entrusted.

#### 7.2. To be indemnified

The RAIF undertakes to indemnify the Depositary, its directors and officers and hold the Depositary, its directors and officers, harmless from and against:

- (i) all expenses, claims, damages, losses, commitments, costs, disbursements, taxes and other liabilities incurred or suffered by the Depositary resulting directly or indirectly from the Depositary carrying out its obligations under this Agreement, except in the case of a gross negligence (*faute lourde*) or negligence or wilful misconduct committed by the Depositary; and
- (ii) all claims, losses or commitments resulting from a breach by the RAIF of the representations and warranties made in this Agreement.

#### 7.3. To be reimbursed

The Depositary shall be entitled to be reimbursed by the RAIF for all reasonable out-of-pocket or incidental expenses, excluding ordinary expenses relating to the Depositary and paying Agent services and duties.

#### 7.4. To use data processing records

The Depositary is authorised by the RAIF and under the ultimate control and responsibility of the RAIF, to maintain all accounts, registers, corporate books and other documents on computer records and to produce at any time during the course of legal proceeding, copies or reproductions of these documents made by photographic, photo static or data processing procedures as judicial proof.



## 8. SETTLEMENT

- 8.1. Settlement and payment for Financial Instruments or Assets may be effected in accordance with customary or established Financial Instruments trading or Financial Instruments processing practices and other procedures in the jurisdiction or market in which the transaction occurs, including without limitation, delivering and/or transferring such Financial Instruments or Assets to the purchaser thereof or to a dealer therefore (or an agent for such purchaser or dealer) anticipating later payment from such purchaser or dealer.
- 8.2. All collections of Proceeds or Financial Instruments or Assets or rights with respect to Financial Instruments or Assets paid or distributed shall be made for the account and at the risk of the RAIF.

## 9. COMPENSATION AND EXPENSES

The Depositary shall be entitled as compensation for services hereunder to fees determined and paid as agreed between the RAIF and the Depositary from time to time as provided in the fee offer signed as amended, or as otherwise agreed from time to time between the RAIF and the Depositary.

The RAIF agrees to pay to the Depositary all assessments, charges and expenses incurred by the Depositary in connection with this Agreement.

The RAIF hereby authorizes the Depositary to debit the relevant Cash Account for the payment of such items.

## 10. TERMINATION

- 10.1. This Agreement shall become effective as of the above mentioned date and shall continue and remain in force until it is terminated in accordance with its provisions.
- 10.2. This Agreement may be terminated, at any time, by either Party giving no less than ninety (90) calendar days prior written notice by registered mail to the other Party at the addresses set forth in Article 14 (Notices) below.

In addition, either Party may terminate this Agreement, at any time, with immediate effect and upon written notice to the other Party, in the following cases:

- (i) breach of any material provision contained in this Agreement which has not been remedied within thirty (30) calendar days of written notice thereof having been given by either Party to the Party in breach;
- (ii) upon either Party being declared bankrupt or becoming subject to a similar procedure of compulsory liquidation;
- (iii) the CSSF withdraws the license or authorization to operate for the Depositary, the AIFM or the RAIF.

- 10.3. In case of termination of the Agreement by the RAIF, the Depositary shall continue to act as Depositary and maintain all Accounts thereafter for such period as may be necessary for the complete delivery or transfer of all Assets held hereunder. In any case, a new Depositary must be appointed within two (2) months after such termination.
- 10.4. In case of termination of this Agreement by the Depositary, the Depositary shall continue to act as Depositary and maintain all Accounts thereafter until a new Depositary shall be appointed by the RAIF within two (2) months after such termination; the RAIF is required to use its best endeavours to appoint a new Depositary in a timely manner, as set forth herein.
- 10.5. The Depositary shall, in the event of termination, deliver or cause to be delivered to any succeeding Depositary, in form for transfer all Assets or other properties of the RAIF deposited with or held by it hereunder and all certified copies and other documents related thereto in its possession or control.
- 10.6. Following the termination of the provision of services to the RAIF for any reason, the RAIF shall be released from its obligations towards the Depositary once it has paid all fees, commissions, and other charges due to the Depositary and all other obligations in connection with this Agreement have been satisfied.
- 10.7. The Depositary shall be entitled to receive fees as provided for hereunder for services rendered until the moment of actual delivery and/or transfer of the Assets and the rights and obligations related thereto.
- 10.8. Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payment save that the RAIF will pay as per the Global fees set forth in the fee offer signed (i) the fees pro rata to the date of termination and upon termination of the Agreement on its behalf (ii) any additional expenses, costs or disbursement necessarily incurred the by AIFM in terminating the agreement; and (iii) any losses necessarily realised in settling or concluding outstanding obligations.

## 11. REPRESENTATIONS AND WARRANTIES

### 11.1. The RAIF Representations and Warranties

The RAIF hereby represents and warrants that:

- (i) the RAIF is duly incorporated and existing as an investment company with variable capital and set up as a partnership limited by shares (*société en commandite par actions*) and conducts its activities in accordance with the applicable laws, decrees, regulations and provisions of its Articles.
- (ii) the RAIF has full power and capacity to enter into this Agreement and all permits, licences and authorisations which may be necessary for the conclusion and performance of this Agreement have been obtained and remain valid; and

- (iii) the conclusion and performance of this Agreement does not contravene any provision of any applicable law, decree, regulation or provisions of its Articles, other contract and the Agreement constitutes a set of rights and obligations which are binding on it in all respects.

## 11.2. The AIFM Representations and Warranties

The AIFM hereby represents and warrants that:

- (i) the AIFM is duly incorporated and existing as public company limited by shares (*société anonyme*) and conducts its activities in accordance with the applicable laws, decrees, regulations (including for the avoidance of doubt, the CSSF circulars) and provisions of its Articles.
- (ii) the AIFM has full power and capacity to enter into this Agreement and all permits, licences and authorisations which may be necessary for the conclusion and performance of this Agreement have been obtained and remain valid;
- (iii) the persons appointed at the management body of the AIFM have been duly authorised as such to conduct the business of the AIFM by the CSSF; and
- (iv) the conclusion and performance of this Agreement does not contravene any provision of any applicable law, decree, regulation or provisions of its Articles, other contract and the Agreement constitutes a set of rights and obligations which are binding on it in all respects.

## 11.3. The Depositary Representations and Warranties

- (i) the Depositary is duly incorporated and existing as a public company limited by shares (*société anonyme*) qualified as financial institution" as defined by the Law of 5 April 1993 on the financial sector, as amended," and conducts its activities in accordance with the applicable laws, decrees, regulations (including for the avoidance of doubt, the CSSF circulars) and provisions of its articles;
- (ii) the Depositary has full power and capacity to enter into this Agreement and all permits, licences and authorisations which may be necessary for the conclusion and performance of this Agreement have been obtained and remain valid; and
- (iii) the conclusion and performance of this Agreement does not contravene any provision of any applicable law, decree, regulation or provisions of its articles, other contract and the Agreement constitutes a set of rights and obligations which are binding on it in all respects.

## 12. FORCE MAJEURE

- 12.1. No Party to this Agreement shall be deemed to be in breach of this Agreement or otherwise be liable for any failure to perform its duties and obligations under this Agreement, if it is prevented, hindered from or delayed in performing its duties and obligations under this Agreement, or for any resultant loss or damage that is caused directly or indirectly, by a Force Majeure Event as defined below.

- 12.2. A "Force Majeure Event" shall be any event outside the reasonable control of the Parties and the consequences of which would have been unavoidable despite all reasonable efforts to the contrary within the meaning of article 1148 of the Civil Code as may be interpreted from time to time by the Luxembourg courts. These events comprise acts of man, nature, governments and regulators, or impersonal events, including, but not limited to acts of God, Government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
- 12.3. Where practicable, each Party will do its best endeavours to notify the other in writing as soon as reasonably practicable if it believes that it will fail or delay in the performance of its obligations under this Agreement as a result of a Force Majeure Event, giving its estimate of the likely nature and duration of the relevant failure or delay. The obligations of such Party, to the extent affected by the cause, shall (whether or not notice has been given) be suspended during the period that the cause persists.

### 13. FORMAL NOTICE – MISE EN DEMEURE

Unless otherwise provided for in writing between the Parties herein, no Party to this Agreement shall be in default of performance of its obligations hereunder without formal notice of default given by the other Party, unless the performance of the relevant obligations has become impossible. Formal notice to this effect shall be sent to the other Party by registered letter formally requesting performance of the relevant obligation(s).

### 14. NOTICES

- 14.1. Any notice given hereunder shall be given by sending the same by registered mail, or by e-mail or fax, confirmed in each case by a signed copy sent forthwith by registered mail or by delivering the same by hand; such notice shall be addressed, dispatched or delivered (as the case may be) to the principal place of business for the time being of the party to whom it is addressed.

- 14.2. If to the RAIF to :

**BUILDIM SICAV-RAIF SCA**  
25C Boulevard ROYAL  
L2449 Luxembourg  
Luxembourg

If to the AIFM to:

**FUCHS ASSET MANAGEMENT S.A.**  
49 Boulevard Prince Henri  
L-1724 Luxembourg  
Luxembourg

If to the **Bank** to:

**EFG Bank (Luxembourg) S.A.**  
Depository Services Department  
56, grand-Rue  
P.O. Box 385  
L-2013 Luxembourg

- 14.3. Any notice sent by post as provided in this Article shall be deemed to have been given 72 hours after dispatch and any notice sent by e-mail or fax as provided in this Article shall be deemed to have been given upon receipt. Failure to receive any confirmation of any notice duly given by e-mail or fax shall not invalidate such notice.
- 14.4. Evidence that the notice was properly addressed, stamped and put into the post shall be conclusive evidence of posting.
- 14.5. Either Party may communicate to the other the change of address for communication purposes by sending prior written notice to the other according to the procedures agreed in this Article.

#### 15. **WAIVER**

No provision of this Agreement may be changed, waived, discharged or discontinued, except by an instrument in writing signed by or on behalf of both Parties hereto.

#### 16. **CONFIDENTIALITY AND DATA PROTECTION**

- 16.1. Without prejudice to the legal provisions relating to the Personal Data Protection, the Depository shall, during the course of this Agreement and for a period of five (5) years following its termination, maintain and preserve the utmost confidentiality in relation to all aspects of the RAIF, the AIFM and/or their business, including personal data in relation to individuals or entities investing in the RAIF or having an interest in the RAIF and shall not without the prior authorisation of the AIFM and, as the case may be and if required by applicable laws and regulations, the relevant individual's or entity's prior written consent, make available to any person any documents or other matters relating to any aspects of the AIFM, the RAIF and/or its business.
- 16.2. The foregoing shall not apply to information disclosed by either Party (i) to the extent necessary to comply with any applicable law, rule or regulation; or the valid order of a court of competent jurisdiction; or which it is required to provide to any governmental or other regulatory authority or agency provided that where it is reasonably practicable and legally not prohibited to do so, it should consult with the other Party in good faith as to the manner and timing of such disclosures or (ii) to their auditors and other professional advisers.

- 16.3. In the event the Depositary Processes (“Process” and its variants for purposes of this article) include, without limitation, access, collect, record, organize, use, store, adapt, alter, retrieve, consult, transfer, disclose or destroy) any information relating to an identified or identifiable natural person on behalf of the RAIF or the AIFM (collectively, “Personal Data”), the Depositary in connection with this Agreement shall:
- comply with all data protection and privacy laws and regulations in any relevant jurisdiction from time to time that are applicable to the Depositary’s Processing of Personal Data in accordance with this Agreement (together, the “Data Protection Laws”), including, but not limited to, the European General Data Protection Regulation 2016/679 dated 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, Luxembourg laws, the law of any current Member State of the European Union, as the case may be;
  - process the Personal Data in accordance with the following scope:
    - (a) subject-matter, nature and purpose of Processing: performing AML checks, due diligence obligations, execution of Instructions, performing reconciliation in relation to subscriptions and redemption orders, oversight duties on the Assets, in compliance with the terms of this Agreement;
    - (b) duration: for the term of this Agreement; and
    - (c) types of Personal Data: name, residence address, email address, bank accounts references, professional and field of activities.
  - agree that, as among the Parties, all such Personal Data shall be deemed to be the RAIF Confidential Information
  - process that Personal Data only on the prior written instructions of the RAIF or the AIFM and only to the extent reasonably necessary for the performance of this Agreement, unless required by Data Protection Laws to Process that Personal Data for other purposes;
  - provide prior notice to the RAIF and the AIFM where a requirement is placed on the Depositary under Data Protection Laws to Process Personal Data other than in accordance with the RAIF or AIFM’s written instructions, unless the relevant law prohibits the giving of notice on important grounds of public interest;
  - inform the RAIF and the AIFM immediately if, in its opinion, the RAIF or AIFM’s instructions would be in breach of the Data Protection Laws;



- not disclose Personal Data to any person except (a) as required or permitted by this Agreement; (b) with the RAIF or the AIFM's prior written consent; or (c) pursuant to an order or requirement of a court of law, administrative agency, or other governmental body, provided that the Depositary gives reasonable notice to the RAIF and the AIFM to contest such order or requirement;
- promptly notify the RAIF and the AIFM of:
  - (a) requests for information or complaints about the Processing of Personal Data;
  - (b) requests for access to or transfer of the Personal Data; or
  - (c) requests for Personal Data to be deleted or corrected or its processing to be restricted.
- fully cooperate with the RAIF and the AIFM regarding any of the items referred in the aforementioned section above and provide the RAIF and the AIFM with information the RAIF or the AIFM reasonably requires to answer to requests or complaints of that or a similar nature (whether made to the RAIF, the AIFM, the Depositary or a third party);
- inform the RAIF and the AIFM immediately if the Personal Data may be at risk from seizure (including, without limitation, for purposes of satisfying a debt or responding to an order of a court or regulator), insolvency or bankruptcy measures or any other activities of third parties. The Depositary shall in such cases inform all third parties that the Personal Data is the sole property of the RAIF and/or the AIFM;
- provide reasonable assistance to the RAIF and AIFM to conduct privacy impact assessments relating to Personal Data (and any related consultations) where required under the Data Protection Laws;
- on termination of this Agreement and at the option of the RAIF or the AIFM, promptly return or delete Personal Data and certify in writing it has done so. The Depositary may retain a copy of Personal Data only to the extent it is obliged to do so by laws; and
- not transfer Personal Data out of a European border (other than to the AIFM) except:
  - with the RAIF and AIFM's prior written consent; and
  - subject to any additional requirements of the RAIF and the AIFM (which may, for the avoidance of doubt, require the Depositary to ensure such parties as are reasonably specified by the RAIF and the AIFM enter into the appropriate standard contractual clauses in the form approved by the European Commission).

The Depository's Processing – use of sub-processors:

The RAIF and the AIFM does not allow the Depository to use sub-processor to process Personal Data except with its prior and explicit consent

In order to ensure the security of Personal Data: the Depository shall also:

- implement appropriate technical and organizational measures to protect that Personal Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access, and against all other unlawful forms of Processing and assist the RAIF and the AIFM to comply with data security obligations under Data Protection Laws;
- ensure the reliability of personnel who have access to the Personal Data including, without limitation, ensuring that such personnel have received appropriate training, and requiring such personnel to keep Personal Data confidential;
- notify the RAIF and the AIFM promptly should it be aware that, or reasonably suspect that, any breach of sections above or any other breach of security or unauthorized disclosure of or access to any Personal Data has occurred (a "Breach") and:

provide the RAIF and the AIFM with the following information:

a description of the nature of the Breach, including the volume and type of Personal Data affected and the categories and approximate number of individuals concerned; the likely consequences of the Breach; and  
a description of the measures taken or proposed to be taken to address the Breach including, where appropriate, measures to mitigate its possible adverse effects;

perform an investigation to learn the cause of the Breach; and

promptly take any proposed steps communicated in accordance with section (a)

- and all further steps necessary to remedy the event and prevent the Breach's reoccurrence; and
- Fully cooperate with the RAIF and the AIFM to comply with any notification requirements that may result from such Breach. The Depository shall document and maintain adequate retention process and policies for all Breaches in accordance with all applicable legal and regulatory requirements.

With respect to the AIFM audit rights:

- The Depositary shall permit the RAIF and the AIFM or their representative (the "Auditor") to access any of the Depositary's premises, personnel and relevant records as may be reasonably required in order to (a) fulfil any legally enforceable request by any government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled by any applicable law to supervise, regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of the RAIF; and/or (b) undertake verification that the Depositary is complying with the terms of this Data Protection Section.
- The RAIF and the AIFM shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Depositary or delay the provision of the services and that, where possible, individual audits are coordinated with each other to minimize any disruption. Subject to the RAIF and the AIFM's obligations of confidentiality, the Depositary shall provide the RAIF or the Auditor with all reasonable co-operation, access and assistance in relation to each audit. The RAIF and the AIFM shall provide at least five (5) business days' notice of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud, in which event no notice shall be required. The Parties shall bear their own costs and expenses incurred in respect of compliance with their obligations under this Section, unless the audit identifies a material default of the Depositary in complying with its obligations under this article, in which case the Depositary shall reimburse the RAIF and the AIFM for all its reasonable costs incurred during the audit.
- If an audit identifies that the Depositary is failing to comply with any of its obligations under this article, without prejudice to the other rights and remedies of the RAIF and the AIFM, the Depositary shall take the necessary steps to comply with its obligations at no additional cost to the RAIF and the AIFM.
- The Parties may agree in writing that a third-party report or certification provided by the Depositary will satisfy the above audit requirements.

16.3 This agreement template and the content thereof are property information of EFG Bank (Luxembourg) S.A. and shall not be used for other purposes and other funds / companies than those mentioned therein and for which EFG Bank (Luxembourg) S.A. is acting in given capacity, save EFG Bank (Luxembourg) S.A.'s written approval.

16.4 The AIF and/or the AIFM shall deliver to the Depositary, within a reasonable time frame in order for the Depositary to review and approve prior to issue thereof, a copy of all statements, notices, circulars, marketing materials and advertisements to be issued on behalf of or relating to the AIF and/or the AIFM in which the name or any reference to

the Depositary may appear and any such publication not approved beforehand in writing by the Depositary shall not be published by or on behalf of the AIF and/or the AIFM. The AIF and the AIFM, each individually, hereby undertakes that no such statement, notice, circular or advertisement will be published.

#### **17. ASSIGNMENT**

Except as otherwise provided by the terms of this Agreement, each Party cannot assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

#### **18. GENERAL**

Neither of the Parties hereto shall commit any act, matter or thing which would or might prejudice or bring into disrepute in any matter the business or reputation of either of the Parties or any director of any such Party.

#### **19. SEVERABILITY**

If any provision of this Agreement is or becomes prohibited or unenforceable in any jurisdiction, that shall not affect the validity or the enforceability of any other provisions thereof or affect the validity or enforceability of such provision in any other jurisdiction. The prohibited or unenforceable provisions shall be replaced by new provisions reflecting the initial intention of the Parties.

#### **20. ENTIRE AGREEMENT**

This Agreement embodies the entire agreement of the Parties hereto and cannot be altered, amended supplemented or any provisions waived except by written agreement of the Parties.

#### **21. NON-EXCLUSIVITY**

The provision of services by the Depositary hereunder shall not preclude the Depositary from providing similar services to any other third party.

#### **22. DELEGATION**

Subject to article 19 of the AIFM Law, the RAIF and the AIFM hereby acknowledge and accept that the Depositary may, under its control and responsibility and at its own expenses, delegate the safe-keeping of the Assets, powers, and duties under this Agreement and may also employ agents to perform, or advise in relation to the performance by it or, any of the services required to be performed or provided by it under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be entered into 29<sup>th</sup> May 2019 with effective date as of date of incorporation of the RAIF (i.e. 10<sup>th</sup> May 2019), one such counterpart to be retained by the RAIF, one by the Depository and one by the AIFM.

Signed for and on behalf of BUILDIM, hereby represented by BUILDIM FUND MANAGEMENT in its capacity as general partner of BUILDIM

By  
Name: Bernd van Manteuffel  
Title: manager  
Date:

By  
Name: Christophe NADAL  
Title: manager.  
Date:

Signed for and on behalf of FUCHS ASSET MANAGEMENT S.A.,

By  
Name:  
Title: **Timothé FUCHS**  
Date:

By  
Name:  
Title:  
Date:

Signed for and on behalf of EFG Bank (Luxembourg) S.A.,

By  
Name: **Edouard CAUX**  
Title: **Vice President**  
Date: 14/06/2019

By  
Name: **Stéphane Cravatte**  
Title: **First Vice President**  
Date: **Deputy COO**

The Depositary's liability shall not be affected by any delegation of its custody functions, subject to article 6.7.2 and 6.7.3 of this Agreement and in case of Force Majeure.

### 23. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed in all respects by the laws of the Grand Duchy of Luxembourg. Any dispute regarding this present Agreement may be brought before the jurisdiction of the Courts of Luxembourg, Grand Duchy of Luxembourg.



**Appendix I - Notice of Agency relationship/proxy  
 (the "Notice")**

Customer Name:	<b>BUILDIM (the "RAIF")</b> <b>OR</b> FUCHS ASSET MANAGEMENT SA (the "AIFM") acting on behalf of <b>BUILDIM</b>
	EFG Bank (Luxembourg) S.A. (the "Depositary")

The RAIF gives you notice that the Depositary is appointed as the exclusive agent of the RAIF or of the AIFM acting on behalf of the RAIF under Luxembourg law with its authority, i.a., to accept and process the instructions in the name and on behalf of the RAIF in respect of the RAIF's investments. Until the RAIF gives notice in writing to the contrary, the Depositary is only authorized to:

accept instructions in relation to the RAIF's investment, including without limitation investment/conversion/redemption requests, from the RAIF or the AIFM through the use of SWIFT, telex, letter, facsimile (including automated facsimile) or any other electronic means and the Depositary shall not be liable for acting on any such instruction that he may receive, which he reasonably considers to be genuine and authentic; and

to collect dividends and/or interests on the RAIF's behalf; and

receive / collect / provide information relating to the RAIF's investments through the use of SWIFT, telex, letter, facsimile (including automated facsimile) or any other electronic means. By executing the first instruction transmitted to the Depositary in the name and on behalf of the RAIF which shall include this Notice, all concerned parties confirm that they acknowledge receipt and accept this Notice and that the Depositary confirms that he shall not decline to process any instruction that he might receive at any time directly for the account of the RAIF. Enclosed is the list of persons authorized to deal with the Depositary on behalf of the RAIF together with samples of the signatures of such authorized persons, which can be amended from time to time.

EC

Signed in \_\_\_\_\_, on \_\_\_\_\_

In three (3) originals

Signed for and on behalf of **BUILDIM**, hereby represented by **BUILDIM FUND MANAGEMENT** in its capacity as general partner of **BUILDIM**,

By  
Name: *Bernd von Manteuffel*  
Title: *manager*  
Date:

By  
Name: *christophe Nadal*  
Title: *manager*  
Date:

Signed for and on behalf of **FUCHS ASSET MANAGEMENT S.A.**,

By  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: **Timothé FUCHS**

By  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signed for and on behalf of **EFG Bank (Luxembourg) S.A.**,

By  
Name: **Edouard CAUX**  
Title: **Vice President**  
Date: *14/06/2019*

By  
Name: **Stéphane Cravatte**  
Title: **First Vice President  
Deputy COO**  
Date: