



### 1. General

- (a) These Terms and Conditions (together with subsequent duly notified amendments to them), constitute the terms of the service agreement between the Client, the Manager and the Custodian, and are together referred to as the “Terms”.
- (b) Except where stated or where the context otherwise demands, words and phrases defined in the rules from time to time of the Financial Services Authority (the “FSA Rules”) have the same meaning when used in these Terms.
- (c) References to statutes, European directives, the FSA Rules and any other regulations shall be taken to include any amendments made to them from time to time.
- (d) Border Asset Management Ltd is referred to in these Terms as the “Manager”; Adam & Company Ltd provide administration and custodial services in accordance with the provisions of Section 3 of these Terms and are referred to as the “Custodian”; the signatory of a Management Agreement is referred to as the “Client” or “you” and the portfolio of assets entrusted by the Client to the Manager is referred to as the “Fund”.
- (e) The Manager and the Custodian are both authorised and regulated by the Financial Services Authority (the “FSA”) in the conduct of investment business, whose address is 25 The North Colonnade, Canary Wharf, London E14 5HS.
- (f) Nothing in these Terms shall exclude any liability of the Manager or the Custodian to the Client arising under the Financial Services and Markets Act 2000 (“FSMA”), any regulations made under it, or the FSA Rules.

### 2. Procedure for Appointment and Effective Date

- (a) The effective date of the Manager’s appointment shall be the date the Manager receives a completed Agreement signed by the client.
- (b) You have the right to change your mind and cancel the Agreement within 14 days from the Effective Date by writing to the Manager. Upon cancellation, you will not be entitled to a refund of any commission paid to brokers in respect of any transactions already effected in the Fund, or (depending on market fluctuations in the intervening period) necessarily the full value of your Fund on the Effective Date. In the event of cancellation, the Manager reserves the right to levy any additional expenses necessarily incurred by the Manager in terminating the Agreement.

### 3. Variations to Agreement

- (a) Regulatory changes or other events outside the Manager’s control dictate that amendments to the Terms have to be made from time to time at short notice as permitted by the FSA Conduct of Business Rules COBs 8.1.3.4(a), subject to the Client being notified in good time before providing services on the amended Terms (unless circumstances dictate otherwise). At all times, a contemporary statement of the Terms incorporating all variations is available for viewing on our website ([www.borderam.com](http://www.borderam.com)) and printed copies of contemporary Terms will from time to time be posted to all clients. In the case of major changes affecting all clients in a substantive way (e.g. changes to charging structures), the Manager undertakes to send you a written notice describing the relevant changes. Such changes will become effective on a date specified in the notice which will be no less than 28 days after the notice is issued.
- (b) Personal financial information and other such data is held by the Manager. This information will be included on the Manager’s scheduled valuations and unless the Client (or other duly appointed person) annotates and returns the relevant sheet – or otherwise notifies the Manager - of material changes to this information, the Manager is entitled to assume that the information retained is relevant and reliable. It is naturally important that you notify us immediately of any material change in your financial circumstances or investment requirements.
- (c) The Client may amend the specified investment strategy, change investment objectives and/or risk profile, and otherwise impose or remove investment restrictions. However, any such amendment will only become effective when we receive such notification in writing or in the event of verbal amendments, when we state our agreement to the change(s). No amendments will affect any outstanding order or transaction or any legal rights or obligations which may already have arisen.

### 4. Termination

- (a) The Client is entitled to terminate the Agreement at any time by written notice. Termination will be effective on receipt by the Manager of the notice or at such time as is specified in the notice subject in either case to the completion of outstanding transactions. The Manager may also terminate the Agreement on one month’s notice in writing or on immediate notice if required to do so by any competent regulatory authority. Termination will not in any event affect accrued rights, obligations, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payment save that the Client will pay (a) the Manager’s fees pro rata to the date of termination; (b) any additional expenses necessarily incurred by the Manager in terminating the Agreement; and (c) any losses necessarily realised in settling or concluding outstanding obligations.
- (b) On termination of the Manager’s appointment (except, in the case of an individual or individuals, by reason of death or incapacity of such individual or, as the case may be, of the last survivor) the Custodian will promptly account to the Client for all securities and cash held by it for the Fund’s account and will direct the Nominee and any sub-custodian to do likewise save that the Manager shall be entitled to direct the Custodian or, where the Client makes its own arrangements for custodial services, such custodian as the Client may appoint, to retain such securities and cash as may be required to settle transactions already initiated and to pay any outstanding liabilities of the Client without prior notice to the Client.
- (c) If, on termination, any money is or may become due as a result of a commitment entered into by the Manager on the Fund’s account (“an outstanding amount”) then the Manager may sell such of the Client’s investments as it may in its discretion select in order to realise funds sufficient to cover any outstanding amount (but only to the extent that insufficient funds are otherwise held on the Fund’s account and are available for the purpose) and/or cancel, close out, terminate or reverse any transaction or enter into any other transaction or do anything which has the effect of reducing or eliminating liability under contracts, positions or commitments undertaken on the Fund’s account.

### 5. Severability of Obligations

Each of the obligations and rights under any of the paragraphs or sub-paragraphs or other provisions of these Terms should be regarded as separate and distinct obligations and/or rights, and the remainder of these Terms shall remain, in full force and effect if any such paragraph, sub-paragraph or other provision becomes or is held to be invalid or ineffective for any reason.



### 6. Initial Value and Composition of Fund

For Clients who have not previously received a valuation from the Manager, the Initial Value of each asset and the composition of the Fund (calculated on the same basis as the periodic valuation referred to in paragraph 9) may be supplied as soon as reasonably practicable after the date when the Initial Value and composition of the Fund are ascertainable. In this event, this shall be deemed to form part of and to have been supplied contemporaneously with the Agreement and the amount of the Initial Value shall be deemed to have been included with the Agreement.

### 7. Fees, Charges and Other Payments

- (a) The Manager and the Custodian shall be remunerated by the Client for their respective services under the Agreement as defined in the relevant section in the Agreement.
- (b) The Agreement provides details of any arrangements which involve the payment or receipt by the Manager of any fee, commission or non-monetary benefit to or from any person other than the Client in connection with the services provided under the Agreement. Further details can be provided to the Client on request.
- (c) The Client shall be liable for any costs properly incurred under the Agreement, including commissions, transfer and registration fees, taxes, stamp duties and other fiscal liabilities and shall reimburse the Manager and the Custodian for any such expenses incurred by them.
- (d) The Client acknowledges that other costs, including taxes, may arise for the Client in connection with the Fund, in addition to those set out in the Agreement, that are not paid via or imposed by the Manager.
- (e) For calculating fees, uninvested cash standing to the credit of the Client's Capital Account will be included in the valuation of the Fund.
- (f) Fees upon ISAs are calculated and deducted by the Custodian (or other provider) according to their own fee-scales and Terms and Conditions. These are generally thereafter shared with the Manager. In such cases where a Management Fee is charged by an ISA manager, we do not generally include such investments as part of the portfolio when calculating our own Management Fees.
- (g) Where the manager of a Unit Trust/OEIC or other investment offers or elects to pay the Manager a share of their Management Fee, The Manager is entitled to receive it.

### 8. Client's Warranties and Undertakings

- (a) The Client warrants that it has full and unrestricted power to employ the Manager to manage the Fund on the terms of the Agreement on a discretionary basis and, insofar as may be appropriate, that it has the power to delegate the custody of investments. The Client warrants that the investments and/or cash comprising the Fund are owned beneficially by the Client and are free from all liens, charges or encumbrances, except as may be stated in the Agreement, and undertakes not to permit such investments and/or cash to become subject to any lien, charge or other encumbrance without the Manager's prior written consent.
- (b) The Client warrants that any information which it has provided to the Manager is complete and correct and that it will notify the Manager promptly if there is any material change to such information. The Client will provide such other relevant information as the Manager may reasonably request from time to time in order to enable the Manager to comply with its regulatory and contractual obligations or such further information as may be properly required by any competent authority, in each case promptly following such request. The Client acknowledges that a failure to provide information requested by the Manager may adversely affect the ability of the Manager to provide services under the Agreement and the quality of the services that the Manager may provide.
- (c) The Client undertakes to advise the Manager of any change in its financial circumstances or other matters (including residence, nationality or domicile) which may affect the operation of the Agreement and the types of investment that may be held.
- (d) Without prejudice to the preceding paragraph, the Client confirms that it is not a United States Person (as defined by Regulation S under the United States Securities Act 1933) and undertakes to advise the Manager should it become or intend to become a United States Person.
- (e) The Client undertakes not to deal, except through the Manager, with any of the investments and/or cash in the Fund or to authorise anyone else to do so except as provided in the Agreement.
- (f) If the investment guidelines contained in the Agreement permit the Manager to apply for shares on behalf of the Client in public issues or offers for sale, the Client undertakes that no separate applications for such offerings will be made by or for the benefit of the Client where such applications are prohibited.
- (g) The Client agrees to compensate the Manager and the Custodian in full against all claims which may be made against either of them in connection with the proper exercise of the powers and discretions conferred under the Agreement except insofar as such claims may result from the fraud, wilful default or negligence of or a breach of its obligations under the FSA Rules by the Manager or, as the case may be, the Custodian.
- (h) A client subject to The Trustees Act 2000 is required to prepare an Investment Policy Statement ("IPS"). The investment objectives selected in the Agreement must comply with this IPS. To this end a copy of the IPS should be provided to the Manager.

### 9. Initial Communications

Subject to 13, 14 and 39 subsequently,

- (a) Any instructions, authorities, notices, requests or other communications to be given to the Manager or the Custodian by the Client under the Agreement shall be in writing and sent to our registered address or otherwise as notified to the Client from time to time and shall take effect upon actual receipt by the Manager or the Custodian;
- (b) All Client cheques should be made payable to the Custodian and NOT the Manager.
- (c) All communications in writing by the Manager or the Custodian to the Client under the Agreement shall be sent to the last address notified to the Manager by the Client.



### 10. Advisability

As stated in Paragraph 1, the Manager is regulated in the provision of investment management services. However, the Manager is NOT regulated in the provision of general financial advice. Whilst the Manager may provide informal opinions upon request on a variety of financial subjects in the general course of the services it provides for its clients, such advice is provided informally and should not be relied upon in the formation of personal financial strategies. We strongly advise all clients to engage professional and competent advice in all financial, accountancy and legal decision-making and the Manager will of course assist clients in finding suitable assistance upon request. The Manager is entitled to assume that the Client has already taken advice on appropriate amounts to invest with the Manager in light of the Client's wider financial circumstances. Otherwise the Manager is entitled to presume that the Client takes responsibility for this decision himself.



### 11. Investment Discretion

- (a) The Manager will manage the Fund for the Client on a discretionary basis within the investment objectives and any restrictions applied in the Agreement, as amended from time to time in writing. There shall be no other restriction upon the type of investment the Manager may purchase on the Client's behalf, or the amount or proportion that may be invested in any one investment or type of investment or market. Subject to such objectives and restrictions, and to the other provisions of these Terms, the Manager will have complete discretion for the account and as the agent of the Client (and without prior reference to the Client) to buy, sell, retain, exchange or otherwise deal in investments and other assets, make deposits, subscribe to issues and offers for sale and accept placings and underwritings of any such investments, execute or effect transactions on any markets, negotiate and execute counterparty and account opening documentation, take all routine or day to day decisions, and otherwise act as the Manager judges appropriate in relation to the management and investment of the Fund. Subject to the investment objectives and restrictions mentioned above, the Fund may include, but is not limited to, direct or indirect holdings of UK and overseas equities, gilt-edged securities, other types of bond or fixed interest securities, units or shares in regulated or unregulated collective investment schemes, commodities, real estate or other rights or assets.
- (b) Notwithstanding the provisions of the Agreement, the investment objectives and restrictions required by the Client shall not be deemed to have been breached as a result of changes in the price or value of certain assets of the Fund brought about solely through market forces or movements in the market.
- (c) The Manager shall not, without the prior consent of the Client, have power to commit the Client to supplement the assets of the Fund by borrowing on the Client's behalf or by committing the Client to a contract which may require it to supplement such assets except that the Manager may acquire partly paid securities and/or overdraw any appropriate account from time to time to settle transactions in investments in accordance with paragraph 24(d).
- (d) The Risk Warning in paragraph 42 contains a general description of the nature and risks of investments which may be held in the Fund. It is important that the Client takes time to familiarise himself or herself with the Risk Warnings and makes sure that he or she understands and is prepared to take the risks outlined.
- (e) Under the Agreement, all cancellation rights or withdrawal rights are waived in respect of execution-only or direct offer transactions in units of a UK-based regulated collective investment scheme, non-packaged product ISA, or any transaction entered into under the Agreement – including any undertaken as a result of an unsolicited call.

### 12. Category of Account

As elaborated subsequently under Section 5 "Order Execution Policy", we will treat every Client as a "Retail Client" under the Markets in Financial Instruments Directive ("MiFID") as from 1st November 2007.

### 13. Instructions and Communications

- (a) The Client may instruct the Manager in writing or (if so agreed between the Client and Manager) by telephone, fax or other electronic medium. All instructions to the Custodian should be made to the Manager for onward transmission. The Client agrees to compensate the Manager in full for all loss, costs, damages and expenses which it may sustain or incur or become responsible for in any way by reason of the Manager's having agreed to accept any instruction by telephone, fax or electronic communication.
- (b) The Manager is authorised to rely on, may act on and treat as fully authorised by the Client, any instruction or communication which purports to have been given (and which is accepted by the Manager in good faith as having been given) by or on behalf of the persons notified by the Client from time to time to the Manager in writing as being authorised to instruct it in respect of the Fund, by whatever means such instruction or communication is transmitted and whether or not it is in writing and, unless the Manager has received written notice to the contrary, whether or not the authority of the person giving or purporting to give the instruction or communication has been terminated. We may (but shall not be obliged to) check or require confirmation that any instructions have in fact been properly given, and we shall not be liable for any failure to act upon an instruction which cannot be authenticated to our satisfaction.
- (c) Any instructions, authorities, notices, requests or other communications to be given to the Manager or the Custodian by the Client under the Agreement must (unless otherwise agreed) be in writing and sent to the address as set out in the Letter or otherwise as notified to the Client from time to time and will take effect upon actual receipt by the Manager or, as the case may be, the Custodian;
- (d) Any notices, requests or other communications to be given to the Client under the Agreement must be sent to the last address notified to the Manager by the Client and will take effect (in the case of leaving the communication at the relevant address) at the time of leaving it there and (in the case of sending the communication by post) on the third (or, in the case of Clients who have notified an address outside the United Kingdom, fifth) Business Day following the day on which it was posted, and in proving such service it will be sufficient to prove that the notice was properly addressed, stamped and posted in the UK.
- (e) The Manager will not act upon instructions left verbally on a telephone answering service or device without additional written confirmation.

### 14. Liability for use of Email and our Website

The Manager has no liability to you arising for breach of confidentiality or otherwise if any person sees any communication which is deemed to have been delivered to your email address. If we act upon instructions given to us by email or facsimile we shall not accept liability for any loss you incur if it appears to us that the communication was sent by you. Unless you instruct otherwise at the time, we will assume that you are content for us to respond to an email communication from you using email ourselves. We shall not be liable for any loss you incur as a result of your failure to receive for whatever reason any communication sent by email by us or as a result of receipt by a third party of any such communication. We shall never be liable under any circumstances for any direct, indirect, incidental, special punitive or consequential loss or damages which result or may result from any use of our website (including but not limited to system errors, deletion or loss of files, defects or delays in transmission of instructions, any failure of our server or the internet, or any other event beyond our control) or your access to the internet. This includes use thereof for any purpose whatsoever or for any reliance on or use of information transmitted to you through our website or the internet. All users of our website are presumed to have read and understood this statement.



### 15. Advice

At the request of the Client or when considered appropriate by the Manager, the Manager may advise the Client in connection with the Client's investment objectives, the general conduct of the Fund and such other matters as the Manager may deem relevant. Any such advice may be given in such manner as the Manager may deem appropriate. With regard to packaged products, the Manager will provide advice independent of the product provider. The Manager may express reasons for such advice but subject thereto the Manager may not state how the judgement leading to any such advice is founded and will not be responsible if information that the Manager reasonably considers reliable and uses as the basis for such advice later proves to have been unreliable, inaccurate or misleading.

### 16. Research

The Manager is entitled to treat any advice and research supplied to it by reputable sources as reliable even if it carries a Disclaimer notice stating that the information contained within it is not guaranteed as to accuracy or completeness. The information we receive and the decisions and recommendations we make as a result can therefore never be guaranteed as to correctness in the long or short term and our recommendations may change without notice. We do not accept liability for any direct or consequential loss arising from the use of reputable third party research.

Further to the Financial Services Authority's Conduct of Business Rules 12.2 (November 2008), the Manager confirms that, other than the provision of research which is reasonably provided to assist the Manager in the provision of its services to clients and does not (and is not likely to) impair compliance with the duty of the Manager to act in the best interests of its clients, he will not enter into any relationship with a broker whereby any other service, IT equipment (hardware or software), subscriptions, memberships or other considerations are conferred on the Manager in return for passing business to the broker. Such "Soft Commission" relationships are strictly controlled by the Financial Services Authority.

### 17. Investment Process

Our investment managers exercise discretion in respect to your portfolio which they deem to be appropriate to your requirements and their services are personal to each client. To provide this personal service every Manager must maintain a degree of autonomy in decision making, subject to the monitoring and supervision carried out as part of our investment process. One of our portfolio managers may therefore utilise an investment for one client which another portfolio manager might choose not to utilise for another client in outwardly similar circumstances. As a result it is perfectly possible that the performance of one client's portfolio will differ from that of another client with a similar investment objective and risk profile. Furthermore, a client of one of our portfolio managers might experience portfolio performance that differs noticeably from a client with a similar investment profile but with another portfolio manager.

### 18. Benchmarking

The Client and the Manager will agree a suitable benchmark for your portfolio. The purpose of a benchmark is to provide clients with a reference point for the performance of their portfolio and it is not a guarantee that your portfolio will perform in line with the chosen benchmark or necessarily follow its distribution or constitution. Your portfolio will not therefore necessarily be based upon the investments that make up the indices in the benchmark or will necessarily follow their asset allocation or performance.

### 19. Investment Objective

In the Agreement, you are asked to specify which of the following you regard as the most important aspect of your investment returns; Capital Growth; Income or a Balance between income and growth. If no such objective is specified, you should be aware that we will assume that your objective is to achieve a balance between income and growth until we receive further notification from you. You may also choose to specify limits, restrictions and guidelines that you wish us to abide by although your attention is drawn to the principles of Paragraph 30 (Unreasonable or Onerous Investments). Any limits or restrictions you specify may relate to the geography, industry sector or financial basis of a particular investment. Unless any restriction is stated by you however, we will assume that you wish no such limits to apply.

### 20. Your Risk Profile

It is our intention to effect transactions under our discretion to meet your specific investment needs but it is important that you realise that all investments carry a degree of risk. In the Agreement, we ask you to clarify to us the degree of risk that you are content for us to incorporate into our decision-making and it is therefore important that we clarify what we understand by the alternatives provided;

- (a) **Defensive;** This profile seeks to protect capital; however being defensive in nature can limit any real increases in capital value. Portfolios may carry a majority of investments in British Government securities as well as other higher quality fixed interest securities and corporate bonds.
- (b) **Neutral;** This profile may incorporate more direct equity investment in large and medium sized companies, fixed interest securities and collective investment schemes. Such portfolios may also contain a proportion in smaller companies and less liquid investments (including funds).
- (c) **Aggressive;** This profile allows for a higher proportion of less well established companies or less liquid investments (including funds). It also allows for a higher exposure to emerging markets, lower grade bonds and early stage recovery situations.

Please note that we regard the risk profile as a guide to the composition of an overall portfolio of investments and not of its individual constituents. Any individual constituents of the Portfolio may have a greater or lesser degree of risk than that implied by the above categories. Where no risk profile is selected, we will assume your risk profile is Neutral until we receive further notification from you.

### 21. Joint Account

If the Client is more than one person, the Client's obligations under the Agreement shall be joint and several and any reference in the Agreement to the Client shall be construed where appropriate as a reference to any one or more of such persons. Any notice or other communication which is given to one of the persons constituting the Client shall be treated as having been given to all persons constituting the Client. The Manager may rely and act on instructions given or purporting to be given by any one of the persons constituting the Client. On the death of any of the persons constituting the Client who is survived by any other such person, the Agreement shall not terminate and the interest of the deceased in the Fund will automatically pass to the benefit of the survivor(s) unless otherwise specified.



### 22. Investment Trusts

Investment Trusts may use or have the ability to use gearing as an investment strategy or invest or propose to invest in other companies that may use or propose to use gearing in their own investment strategy. Movements in the price of the securities may be more volatile than the movements in the price of underlying investments. The investment may be subject to sudden and large falls in value and you may get back nothing at all if the fall in value is sufficiently large. Securities that are (1) listed in the UK under Chapter 21 of the Listing Rules or are (2) issued by an Investment Trust and listed in an EEA state other than the UK may sometimes propose to use gearing. Where gearing is used or proposed to be used as an investment strategy, or the Manager or Issuer invests, or proposes to invest, in securities that satisfy (1) and (2) above, the securities may be subject to fluctuations in value that are significant compared with the likely fluctuations in value of the underlying investments.

### 23. Shareholder Concessions

By agreeing to your investments being held by one of the Custodian's Nominee companies, you accept that you will no longer be entitled to receive shareholder reports, accounts and other material from time to time issued by the entity in which you are invested. You may also forego right to any company privileges (shareholder "perks") to which you may have otherwise have been entitled as the registered owner of an investment.

### 24. Banking

#### Income & Capital Accounts

- (a) Subject to the terms of the Agreement, an Income Account, to which all income will be credited and all expenditure may be debited, and a Capital Account, to which all capital transactions will be debited or credited, may be opened in the name of the Client or in such other name as the Client may in writing instruct in such currency or currencies as the Manager may consider appropriate with the Custodian.
- (b) The Manager is hereby authorised to give instructions to the Custodian regarding such accounts on behalf of the Fund.
- (c) The Custodian shall hold all money deposited into such accounts as banker for the Client rather than as Trustee (or in Scotland as Agent). As a result, such money will not be held in accordance with the Client Money Rules laid down by the FSA. Such money shall earn interest based on the Custodian's prevailing rate of interest (details of which are available on request). Interest is calculated on the daily cleared credit balance and paid quarterly.
- (d) The Manager may overdraw any of the Client's accounts from time to time in order to settle transactions in investments. Interest may be charged on any such overdraft as specified in The Fees, Charges and Interest Rates Appendix.

#### High Interest Deposit Accounts

So as to access better client deposit interest rates than are available individually, the Manager at its discretion may from time to time pool clients' deposits in a single account ("The Pooled Account"). To facilitate this, the Client gives the Manager and Custodian specific permission to join their deposit funds with others when utilising the Pooled Account and accepts absolutely the Manager's calculations when apportioning interest. The Client accepts that amounts in this Pooled Account are unlikely to be covered by statutory banking compensation schemes such as the Investors' Compensation Scheme, ("ICS") as amended from time to time. In the event of any default, the Manager undertakes to do all in its power to recover any funds at risk but if the Client does not wish the Manager to pool their money in this way (so as to retain full protection under the ICS), the Client should inform the Manager in writing. The Manager confirms that;

- (a) The Account will be clearly designated as "Guernsey Instant Access (ICEBERG) Clients Account" for UK resident Border clients or "Guernsey Instant Access (ICEBERG) Intl Clients Account" for overseas resident Border clients and will never be augmented with the Manager's funds or those of other parties.
- (b) The Manager will apportion interest earned with reference to the amount held within the Account by the Client every day.
- (c) The Manager will apportion interest earned at the end of each calendar month and the Client's own income account will be credited with the interest promptly thereafter.
- (d) The Manager is able to demonstrate that the amount owed to the Client from the Account can always be reconciled with the Client's portfolio and the sum involved can be identified at any time.
- (e) The Manager's Interest Rates and Bands are liable to change at short notice. They are available for viewing at all our offices and are on our website ([www.borderam.com](http://www.borderam.com)).

### 25. General Restrictions

- (a) The Manager may not, without the prior consent of the Client, commit the Client to supplement the assets in the Fund by borrowing on the Client's behalf.
- (b) The Manager will not invest directly on behalf of clients in Penny Shares, Options, Futures or Contracts for Differences. For the avoidance of doubt and as a statement of best practice, the Manager may however invest in collective investments which may utilise these investments as part of a diversified portfolio. The Manager may, at its absolute discretion and on its own behalf, also invest in these instruments if, for example, it seeks to hedge or otherwise secure its financial health.
- (c) The Manager may not directly utilise any broker outside the United Kingdom or otherwise not regulated to carry out business in the United Kingdom.

### 26. Dealing, Counterparties and Execution Policy

- (a) In effecting transactions for the Fund, subject to paragraph 26 (c) below, the Manager will at all times comply with the Manager's Execution Policy and in particular will act in the best interests of the Client and comply with any applicable obligations regarding best execution under the FSA Rules.



- (b) Details of the Manager's Order Execution Policy (the "Execution Policy") are enclosed as Section 5 of these Terms. The Client hereby confirms that it has read and understood these and agrees to the Execution Policy. Any material changes to the Manager's Execution Policy will be notified to the Client.
- (c) Specific instructions from the Client in relation to the execution of orders may prevent the Manager from following its Execution Policy in relation to such orders in respect of those elements of execution covered by the instructions.
- (d) The Client agrees that, in arranging for the execution of transactions in relation to the Fund, the Manager may deal or instruct others to deal outside a Regulated Market or Multilateral Trading Facility.
- (e) The Manager may (subject to these Terms and the Manager's Execution Policy) deal on such markets or exchanges and with such counterparties as it thinks fit. All transactions will be effected in accordance with the rules and regulations of the relevant market or exchange, and the Manager may take all such steps as may be required or permitted by such rules and regulations and/or by appropriate market practice.
- (f) If any counterparty fails to deliver any necessary documents or to complete any transaction, the Manager will take all reasonable steps on behalf of the Client to rectify such failure or obtain compensation in lieu thereof. All resulting costs and expenses properly incurred by the Manager shall be paid by the Client.
- (g) The Manager may arrange any transaction or series of transactions for the Client by amalgamating them with transactions for other clients so as to deal collectively for several clients if in its opinion it will be advantageous to the Client, and will allocate such transactions on a fair and reasonable basis in accordance with the requirements of the FSA Rules; if the Manager chooses to deal collectively, there may be a delay in implementing the Client's instructions or decisions made on the Client's behalf. The Client recognises that each individual aggregated transaction may operate to the advantage or disadvantage of the Client.
- (h) The Client instructs the Manager not to make public client limit orders in respect of shares admitted to trading on a regulated market which are not immediately executed under prevailing market conditions.

### 27. Dealing In Securities which may be Subject to Stabilisation

The Manager or his representatives may, from time to time, recommend transactions in securities to you, or carry out such transactions on your behalf, where the price may have been influenced by measures taken to stabilise it. Stabilisation enables the market price of a security to be maintained artificially during the period when a new issue of securities is sold to the public. Stabilisation may affect not only the price of the new issue but also the price of other securities relating to it. The FSA allows stabilisation in order to help counter the fact that, when a new issue comes onto the market for the first time, the price can sometimes drop for a time before buyers are found. Stabilisation is carried out by a 'stabilisation manager' (normally the firm chiefly responsible for bringing a new issue to market). As long as the stabilising manager follows a strict set of rules, he is entitled to buy back securities that were previously sold to investors or allotted to institutions which have decided not to keep them. The effect of this may be to keep the price at a higher level than it would otherwise be during the period of stabilisation. The Stabilisation rules;

- (a) limit the period when a stabilising manager may stabilise a new issue;
- (b) fix the price at which he may stabilise (in the case of shares and warrants but not bonds); and
- (c) require him to disclose that he may be stabilising but not that he is actually doing so. The fact that a new issue or a related security is being stabilised should not be taken as any indication of the level of interest from investors, nor of the price at which they are prepared to buy the securities.

### 28. Warrants

A warrant is a time-limited right to subscribe for shares, debentures, loan stock or government securities and is exercisable against the original issuer of the underlying securities. A relatively small movement in the price of the underlying security results in a disproportionately large movement, unfavourable or favourable in the price of the warrant. The price of the warrants can therefore be volatile. It is essential for anyone who is considering purchasing warrants to understand that the right to subscribe which a warrant confers is invariably limited in time with the consequence that if the investor fails to exercise this right within the predetermined time-scale then the investment becomes worthless. You should not buy a Warrant unless you are prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges. We ask you to specifically inform us that you are content for us to buy warrants for you in the Agreement and unless you do so, we will not buy these for you.

### 29. Summary Policy Regarding Potential Conflicts of Interest and Disclosures

Border attempts to ensure that all clients are treated fairly by relying on a policy of independence. This requires our employees to disregard any material interest or conflict of interest when dealing for a customer in the exercise of discretion. However, notwithstanding this over-riding policy and any limitations specified in the Agreement, the Manager shall have discretion to effect transactions in securities in which the Manager has a material interest or a relationship of any description with another party which may lead to a potential conflict with the Manager's duty to the client. Whilst in all cases, the Manager shall seek to avoid any disadvantage for the Client, the Client should be aware that such conflicting interests or duties may arise because:

- (a) The Manager or an Associate is also undertaking Investment Business for another Client or Clients with interest in such investments;
- (b) Any of the Manager's directors or employees is a director or holds or deals in securities of or is otherwise interested in any company whose securities are held or dealt in on behalf of the Client;
- (c) The transaction is in relation to an investment in respect of which the Manager or an Associate may benefit from a commission, fee, mark-up or mark-down payable otherwise than by the Client, and/ or the Manager or an Associate may also be remunerated by the counterparty to any such transaction and/or an Associate may have arrangements relating to marketing or otherwise;
- (d) The Manager deals on behalf of the Client with an Associate;
- (e) The Manager is conducting an "agency cross" by matching the Client's order with the order of another party (who may be another Client or an Associate);
- (f) The Manager and/or the Custodian may, acting as principal, sell to or purchase from the Client currency other than the currency of account;



- (g) Where the Manager effects a transaction involving placings and or new issues, such transaction may be effected with an Associate who may be acting as principal or receiving agent's commission; in either case the terms will be no less favourable than if effected directly with the market. Associates may retain any agent's commission or discount or other benefit (including directors' fees) that accrues to them;
- (h) The transaction is in the securities in respect of which the Manager or a director or an employee of the Manager or an Associate is contemporaneously interested in or has dealt in on his own account;
- (i) Transactions are in securities in which the Manager or a director or employee of the Manager or an Associate is contemporaneously trading or has traded on its own account or has either a long or short position;
- (j) The Manager gives a recommendation to buy or sell a designated investment in which one of the firm's customer's has given instructions to sell or buy.

Full details of our Conflicts of Interest Policy are available on request.

### 30. Unreasonable or Onerous Investments

The Manager shall not be obliged under the terms of the Agreement to undertake the management of investments which would, in the opinion of the Manager, be unreasonable or onerous to it. Should the Manager consider that an existing investment within the Fund becomes unreasonable or onerous to it for any reason, the Manager may at its absolute discretion alert the Client that such an Investment no longer forms part of the Fund and is no longer covered by the Agreement.

### 31. ISA

Separate Application form(s) are required to open ISA(s) and to transfer existing ISA(s) into the Fund. Such applications constitute Agreements between the Client, the Manager and the Custodian and are subject to the ISA Manager/Custodian's Terms and Conditions for ISAs as shown on ISA Application Forms. The Client authorises the Manager to dictate the investments within an ISA held with the Custodian. You warrant that you will notify us of any ISA investment(s) that you make outside the Fund and unless so notified in advance, the Manager is entitled to presume that the Client has not used the contemporary ISA allowance in the year in question. The Manager will not accept liability for any cost or penalty imposed on you as a result of our utilising your ISA allowance pursuant to your signing an ISA Application form (including investments in subsequent years) unless you inform us before we organise any such investment that you have already utilised all or part of your ISA Allowance elsewhere.

### 32. Indirect Payments

The Manager may effect transactions for the Fund with or through the agency of a person who provides services under any arrangement whereby that person will from time to time provide or procure for the Manager services or other benefits which result, or are designed to result, in an improvement in the services which the Manager provides to its clients and for which it may make no direct payment but may undertake to place business with that person. Any transactions effected for the Fund as aforesaid will be effected so as to secure best execution for the Client disregarding any benefit which might accrue directly or indirectly to the Client from the services or benefits provided.



### 33. Dividends, Distributions and Other Rights

Dividends and distributions on UK securities held by the Custodian will be credited to the Client by the Custodian on receipt of cleared funds by the Custodian, and dividends and distributions on foreign securities will be credited, net of sub-custodian collection costs, overseas withholding tax and (where relevant) UK tax, to the Client on the date when the Custodian receives notification of receipt by the sub-custodian or, if later, after any necessary currency conversion. All other income in respect of the Fund will normally be credited to the Client on receipt of cleared funds.

### 34. Custodial Services

- (a) The Custodian shall, unless alternative arrangements are agreed, arrange for the Fund's UK securities other than bearer securities (for which the Custodian shall arrange safekeeping) to be registered in the name of Adam & Company (Nominees) Limited, 22 Charlotte Square, Edinburgh, EH2 4DF (the "Nominee") who shall hold such UK securities as bare trustee for the Client. The Client shall at all times remain beneficially entitled to such securities.
- (b) The Nominee shall hold such securities to the order of the Custodian.
- (c) The Custodian accepts responsibility for the acts and omissions of the Nominee.
- (d) Any other securities comprising the Fund and the certificates and other documents representing or evidencing them will be held either:
  - i. By the Custodian in its own custody at 22 Charlotte Square, Edinburgh, EH2 4DF or at such place or places within UK as it may at its discretion select;
  - ii. By the Custodian in dematerialised form within the electronic clearing system operated by Euroclear UK and Ireland Limited, or by any other clearing or settlement system or depository. The Client's agreement hereto constitutes the Client's authority to the Custodian that, as a result of this provision, securities may be held by the Custodian in fungible accounts with clearing or settlement systems and that, consequently, the securities of one client may be used to satisfy the bargain of another. The Custodian shall identify on its records the Client's entitlement to any securities held in fungible accounts; or
  - iii. Subject to the terms of paragraph (e) below to the order of the Custodian by a sub-custodian.
- (e) The Custodian may arrange for the Fund's overseas securities to be held by a sub-custodian acting on its behalf. The Custodian undertakes to exercise all reasonable care and diligence in its choice of sub-custodians. In the event that any sub-custodian should fail to account to the Custodian for any transaction or securities for whatever reason the Custodian will endeavour to pursue on behalf of the Client all appropriate legal remedies against such sub-custodian to recover such securities or any sums due or compensation in lieu thereof but, subject thereto, will not accept any liability for any such failure to account. The costs and expenses properly incurred by the Custodian in connection with the pursuit of such remedies shall be debited to the Client.
- (f) Where possible and practicable under local law and any rules applicable to the relevant sub-custodian, securities will be held in an account which is designated as belonging to clients. Where it is not possible or practicable under local law or the rules applicable to the relevant sub-custodian to hold securities in an account that is designated as belonging to clients, the Client's assets may not be distinguishable from the assets of the sub-custodian and, as a consequence, may be subject to a claim by creditors in the event of the sub-custodian's insolvency.
- (g) Where securities are held by a sub-custodian outside the UK, the Client is warned that different settlement, legal and regulatory requirements and different practices relating to the segregation of those securities may apply and the Client's rights relating to those securities may differ accordingly.
- (h) Entitlements to shares and any other benefits arising from corporate events shall be allocated on a pro-rata basis among those clients entitled to them and the Client may not receive exactly the same amount as would be the case if the holding were registered in the Client's name. Entitlements to fractions of investments or rights which cannot be fully apportioned will not be allocated to the Client but will be sold and the proceeds donated to a charity of the Custodian's choice.
- (i) Client investments held by the Custodian will be registered collectively into the name of the Nominee. Client investments may be pooled in an account of a sub-custodian with the securities of other clients. Consequently, clients' entitlements may not be identifiable by separate certificates or other physical documents of title. In the event of default by the Nominee or a sub-custodian or the insolvency of the Custodian, any shortfall in clients' investments may be shared pro-rata among all the clients whose investments are so registered or held, and the Client may therefore receive only part of any amount claimed.
- (j) The Custodian may hold investments belonging to the Client with an intermediate broker, settlement broker or other third party in order to facilitate a transaction with or through that person.
- (k) The Client acknowledges and agrees that the Fund is subject to a lien and right of set off in favour of the Custodian as described in paragraph 36. The Fund may also be subject to (i) any security granted by the Client in respect of any borrowing from the Custodian as separately agreed between them and (ii) a lien granted by the Manager or the Custodian in favour of any sub-custodian or any clearing or settlement system or other third party.
- (l) The Custodian is hereby authorised to act upon the instructions of the Manager with respect to the delivery and receipt of all securities entrusted to it under the Agreement.

### 35. Settlement

- (a) The Custodian will attend to the settlement of all transactions undertaken at the direction of the Manager and may use such settlement and other systems as it may select on the terms of business of the operators of such systems. The Custodian's obligation to settle transactions is conditional upon its holding or receiving all necessary documents or funds (as the case may be). In addition, delivery or payment (as the case may be) by the other party to any such transaction shall be at the Client's risk and the Custodian's obligation to account to the Client for any investment or the proceeds of sale of any investment shall be conditional upon receipt by the Custodian of the relevant documents or sale proceeds (as the case may be) from the other party to the transaction.



- (b) At the request of the Manager or the Custodian, the Client shall promptly execute or produce any documents (or where relevant shall procure the execution or production of such documents) necessary to carry out the transactions effected in accordance with the terms of the Agreement by the Manager or the Custodian. Where the Client contemplates a delay or failure in delivering such documents the Client shall notify the Manager immediately.

### 36. Security and set-off

- (a) The Client hereby grants to the Custodian a lien over the securities and other assets held by it under the terms of the Agreement in respect of any liability incurred by the Client under the Agreement. The Custodian may at its discretion realise any securities or other assets held by it for the purposes of meeting any such liability. The Custodian may retain, make deductions from or set-off any amounts the Custodian owes to the Client in order to settle any outstanding obligations of the Client arising from the Agreement.
- (b) The Manager may (and may direct the Custodian to) realise any securities or other assets held by the Custodian for the purposes of meeting any liability incurred by the Client to the Manager under the Agreement.

### 37. Voting

The Manager may procure the exercise of any voting rights attaching to the investments of the Fund unless given specific instructions to the contrary by the Client.

### 38. Stock Lending

The Custodian shall not, and shall procure that any Sub-custodian shall not, arrange for any securities held by it under the terms of the Agreement to be lent to or deposited by way of collateral with any third party.

### 39. Valuations, Confirmations and Periodic Statements

A statement showing the composition and initial value of the Fund will be supplied as soon as reasonably practicable following the Effective Date, calculated on the basis set out in paragraph (c) below.

- (a) Periodic statements of the contents of the Fund, valuations of the Fund and assessments of the Fund's performance will be sent to the Client at the intervals and otherwise as set out in the Agreement.
- (b) Valuations will be calculated on the following basis:
- i. Investments quoted on a recognised or designated investment exchange or over-the-counter market and collective investment vehicles will be taken at the closing middle market price on such investment exchange or over-the-counter market, fund manager quote or, if bid and offer prices are not obtainable, then at the closing price at, or last traded price before, the close of business on the relevant valuation date; and
  - ii. Other assets, and investments which in the opinion of the Manager are not readily realisable, shall be valued at such fair market price as may be determined on each occasion by the Manager.
- (c) Performance will be measured by comparing the performance of the Fund during the period since the previous assessment (or, as the case may be, since commencement) and such other periods as the Manager may consider appropriate, with a relevant benchmark index. Benchmarks are provided for comparative reporting purposes only and are not necessarily indicative of the asset allocation within the Fund.
- (d) Unless agreed with the Manager and stated otherwise in the Agreement, the Manager will not despatch individual contract notes after dealing.
- (e) The Manager will assist the Client in fulfilling any obligations to disclose shareholdings under the Companies Act 2006 or Chapter 5 of the FSA's Disclosure and Transparency Sourcebook (DTR) (or similar overseas legislation).

### 40. USA Withholding Tax and Confidentiality

Non US-resident of US investments and all US residents or nationals agree to provide us with appropriate client documentation in line with US regulations. This includes W8-BEN and W-81MY forms. The Custodian will endeavour to collect income on your behalf under the appropriate reduced rate of withholding tax.

### 41. Anti-Money Laundering Legislation

Both the Custodian and the Manager have certain responsibilities under the Money Laundering Regulations 2007 and the Proceeds of Crime Act 2002 to confirm the identity and permanent address of our clients. You will be asked to provide documents to establish the correctness of these details. These will generally be a certified copy of your passport and photocard driving license or other acceptable documents, details of which will be supplied to you. We also have certain responsibilities under these laws to confirm the identity and permanent address of any third party connected to your Fund. You confirm that where requested this information is provided promptly and will be accurate and that we may retain photocopies of such information. You also confirm that all such information can be freely shared between ourselves and the Custodian. We reserve the right to restrict payments if they are made to third parties or to bank accounts not in your name(s), or held in a jurisdiction outside the European Economic Area.

Please note that in some circumstances, we may be requested by a product provider, regulatory body or other party to forward to them copies of any verification of identity and address documents that we have obtained from you. You confirm that we have your permission to forward these documents to such parties if so requested at our discretion.



### 42. Warnings

The following additional warnings are given in compliance with FSA Rules. Notes (c), (d) and (f) are included as a matter of best practice:

- (a) You are reminded that portfolio values, and the income produced by them, may fall as well as rise and that your initial capital might not be returned to you upon closure of your account. Furthermore, past performance should not be considered a reliable guide to future returns.
- (b) If an investment is denominated in a currency other than sterling, changes in the rates of exchange between currencies may cause the value of the investment to diminish or increase and therefore the investor may not get back the amount invested.
- (c) Unregulated collective investment schemes may have infrequent valuation points and may be relatively illiquid.
- (d) Higher Volatility Funds may be subject to sudden and large falls in value and you could get nothing back at all.
- (e) Except where instructed by the Client, we will only effect transactions in readily realisable investments.
- (f) Split Capital Investment Trusts carry significant risk to both capital and income in times of falling markets.

### 43. Taxation

- (a) The Client and any professional tax adviser of the Client are solely responsible for the management of the Client's affairs to the best advantage for tax purposes including requirements that must be met to qualify as a resident eligible for benefits under taxation treaties. It is the responsibility of the Client to determine whether relief is available under such treaties. The Manager may, however, advise the Client from time to time in relation to specific tax matters but, subject thereto, can accept no responsibility for any tax consequences of anything done within the scope of its authority. If the Client is in doubt about its tax position or if the Client does not have tax expertise, it is strongly recommended that the Client consult a professional tax adviser.
- (b) The Client may instruct the Manager for the purpose of Capital Gains Tax if he or she plans to realise within a specific tax year capital gains of a specified amount.
- (c) In signing the Agreement the Client is certifying that he or she is a British National and ordinarily resident in the UK for tax purposes. If the Client is neither a British National nor resident in the UK for tax purposes, the Client should state his or her nationality and reporting tax regime in the Agreement.

### 44. Complaints

The Manager and the Custodian have established procedures in accordance with the FSA Rules for the effective consideration of complaints by the Client. All formal complaints should in the first instance be made in writing to the Manager, at the address shown in the Letter. In addition, the Client has a right of complaint direct to the Financial Ombudsman Service. Further details are given on our website ([www.borderam.com](http://www.borderam.com)).

### 45. Compensation

The Manager and the Custodian participate in the Financial Services Compensation Scheme. The Client may be entitled to compensation from the scheme if the Manager or the Custodian cannot meet its obligations. This depends on the type of business and the circumstances of the claim. Most types of investment business are covered for 100% of the first £30,000 and 90% of the next £20,000, so the maximum compensation is £48,000 to qualifying investors in the event of the Manager or the Custodian being unable to meet its liabilities to the Client. Further details are available on request or are available from the Financial Services Compensation Scheme.

### 46. Liability

- (a) The Manager will deal in good faith and with due diligence but shall not be liable in respect of the negligence, wilful default or fraud of any person, firm or company through whom transactions are effected for the Client's account.
- (b) No warranty or undertaking is given by the Manager as to the performance or profitability of the Fund, or any investments, cash or other property forming part of, or constituting, the Fund. Nor is any warranty or undertaking given by the Manager that the investment objectives stated in the Agreement will be successfully achieved.
- (c) The Manager will not be responsible for any loss of opportunity whereby the value of the Fund could have been increased or for any of the decline in value of the Fund, however it arises, except to the extent that such loss or decline is due to the Manager's fraud, wilful default or negligence, or that of its employees or results from the Manager being in breach of its obligations under the FSA Rules.
- (d) The Manager will not be liable for any loss arising from errors or facts or judgement or any action taken (or omitted to be taken) by it however it arises except to the extent that any such error, action or omission is due to the Manager's fraud, wilful default or negligence, or that of its employees or results from the Manager being in breach of its obligations under the FSA Rules.
- (e) The Manager will be responsible for entrusting to the safe custody of the Custodian securities and documents of title relating thereto (to the extent that they come into the Manager's possession or control and are not held by it) but the Manager shall not be liable in relation to any negligence, wilful default or fraud by the Custodian.
- (f) The Custodian accepts responsibility for the negligence, wilful default and fraud of the Nominee but, subject thereto, shall not be liable for the negligence, wilful default or fraud of any sub-custodian or other person or entity which holds money or investments forming part of the Fund.

### 47. Extraordinary Circumstances

In the event of any failure, interruption or delay in the performance of the Manager's or the Custodian's obligations resulting from acts, events or circumstances not reasonably within their respective control, including, but not limited to, industrial disputes, acts or regulations of any governmental or supranational bodies or authorities and breakdown, failure or malfunction of any telecommunications or computer service or systems, the Manager or, as the case may be, the Custodian shall not be liable or have responsibility for any kind of loss or damage thereby incurred or suffered by the Client.



### 48. Confidentiality

- (a) The Manager is not obliged to disclose any information to the Client if it believes that such disclosure would constitute a breach of duty or confidence to any other person.
- (b) The Manager is authorised to disclose any information of any kind relating to the Client as well as the services provided by the Manager to the Client where the Manager has a legal duty to make such disclosure or is otherwise required to do so by law or by any regulatory or supervisory authority or by any other person entitled by law to require the provision of such information. The Manager shall not incur any liability of any kind (including any liability for defamation) for making such disclosure.

### 49. Data Protection Act

To comply with the requirements of the Information Commissioner under the Data Protection Act, the Manager and the Custodian (individually and together referred to as “we”) must give the Client the following details about the way in which we look after personal information. The Client should ask the Manager or the Custodian if he or she requires any further explanation.

- (a) The Client’s accounts are with Border Asset Management Ltd and Adam & Company plc who are the joint data controllers.
- (b) Your information comprises all the details we hold about you and your transactions, and includes information obtained from third parties.
- (c) We do not disclose your information to anyone except where we deem appropriate in the course of providing services to you under the Agreement; or where we are required or permitted to do so by law; or to credit reference and fraud prevention agencies and other companies that provide a service to us or you; or where we may transfer rights and obligations under the Agreement
- (d) We may transfer your information to other countries on the basis that anyone to whom we pass it provides an adequate level of protection. However, such information may be accessed by law enforcement agencies and other authorities to prevent and detect crime and comply with legal obligations.
- (e) From time to time we may change the way we use your information. Where we believe you may not reasonably expect such a change we shall write to you. If you do not object to the change within 60 days, we may reasonably deem that you have consented to that change.
- (f) If you would like a copy of the information we hold about you, please write to: The Compliance Officer at Border Asset Management. A fee may be payable.

### 50. Assignment

The Agreement is personal to the Client and shall not be capable of assignment by the Client or of being transferred by it. Each of the Manager and the Custodian may appoint as manager (or, as the case may be, custodian) in its place any third party (including Associates) whom the Manager (or, as the case may be, the Custodian) determines is appropriately authorised and capable of performing the services under the Agreement to at least a similar standard, and shall be entitled to assign to such appointee all the benefits of the Agreement subject to the appointee’s agreeing to be bound by all the duties and obligations of the Manager (or, as the case may be, the Custodian).

### 51. Death of Client

After the Manager receives information that it considers to be reliable that a personal client has died, the Manager and Custodian are required to “freeze” the relevant account until subsequent instructions are received from the Executors. The Manager will arrange for a Probate Valuation to be issued upon receipt of a Death certificate and this will be sent to the person appointed by the executor(s) to administer the Estate. Where the funds within the relevant account are to be distributed, the Manager will organise for suitable disposals to be made and will arrange for distributions to be made as instructed by the Executors. Until the account is formally closed, the Manager will continue to levy Fees and Commissions at the rate agreed with the original client. The Manager reserves the right to charge no more than £100 (+ VAT for UK clients) for each additional set of statements or other such information requested by Solicitor, Executor or other connected people during any part of the administration of a Client’s Estate (and these charges will be levied whether or not the Account has been closed). The Manager will take all reasonable care to ensure that such Statements and other Information are accurate but can take no responsibility for any errors, howsoever arising, that may be contained within them.

### 52. Market Abuse

You should be aware that if you are a director or an employee with access to confidential information about a listed company or if you are in possession of such information through a connection with such persons, you must comply with the Model Code requirements applying in respect of that listed company.

### 53. Overseas Residents

The Manager’s services will not be available in countries where they are prohibited by local law. If in doubt, you should contact your usual legal adviser. We will not be responsible for the use of our services by persons in countries where our services are prohibited and whenever the Manager believes that undertaking work for a client might bring ourselves into conflict with foreign laws, we reserve the right to decline to do so.

### 54. Unsolicited Calls and Communications

- (a) In the interest of the proper administration of the Fund, and for any related investment purposes, the Manager, its representatives or employees, may call upon the Client by telephone, visit or otherwise communicate financial promotions to the Client without express invitation.
- (b) The Manager or the Custodian may at their absolute discretion record telephone conversations with Clients or their duly appointed advisers or representatives.

### 55. Governing Law

The Agreement will be governed and construed under the laws of England and Wales. Each party submits to the exclusive jurisdiction of the English courts.



### Order Execution Policy

#### (a) Introduction

Each of the Manager's clients will be classified as a Retail Client under the FSA's Conduct of Business ("FSA COBs") Rules. Precise references to the FSA's COBs rules are available on request.

As a portfolio manager, the Manager has an obligation to act in the best interests of its client. This obligation is set out in FSA COBs.

#### (b) Use of Approved Brokers

The Manager regards the transaction price as of relative high importance. For the majority of trades, the Manager relies on its carefully chosen brokers (i.e. only brokers who have been approved after due diligence<sup>1</sup>) to deliver best execution. This is achieved principally by two methods:-

- 1) The Manager will insist that each broker's terms of business classifies the Manager as a Professional Client who is entitled to Best Execution for all trades.
- 2) The quality of execution is carefully monitored to ensure that the transaction price is reasonable. The Chief Executive scrutinises the daily transactions report to satisfy himself of the quality of execution.

The Manager will monitor, on a regular basis, the effectiveness of the arrangements in this Section and where necessary, take appropriate remedial action to correct any deficiencies. These arrangements will also be reviewed whenever a material change occurs and also annually.

#### (c) Execution of Trades with the Market

Where the Manager is executing a trade directly with the market, the rules contained in FSA COBs will apply. The Manager will consider the following factors to determine the manner in which the order will be executed:-

- 1) Price;
- 2) Costs;
- 3) Speed;
- 4) Likelihood of Execution or Settlement;
- 5) Size of the order;
- 6) Nature of the order;
- 7) Any other consideration relevant to the efficient execution of the order.

The Manager will determine the relative importance of each of the above factors using the following criteria:-

- 1) The characteristics of the Client including its categorisation as a Retail or Professional Client;
- 2) The characteristics of the order, including whether any specific instructions have been received from the Client;
- 3) The characteristics of the financial instruments which are the subject of the order;
- 4) The characteristics of the execution venues to which the order can be directed.

Ordinarily, price will be of high relative importance in obtaining the best possible result. After this, the next most important factor is the liquidity of the market. However, in certain circumstances, for some orders or financial instruments or markets, the Manager in its absolute discretion, may decide that other factors may be more important in determining the best possible result.

The Manager may use one or more of the following venue types when executing an order directly with the market:-

- 1) Regulated Markets;
- 2) Multilateral Trading Facilities;
- 3) Third Party Investment Firms acting as Market Maker or other liquidity providers; and
- 4) Non-EU entities performing similar functions.

The Manager will assess, on a product-by-product basis, which of the above venues are likely to provide the best possible result. For certain financial instruments, there may only be one execution venue and in such circumstances, the Manager will take the view that the best possible result has been achieved.

For financial instruments traded on a Regulated Market or a Multilateral Trading Facility the Client hereby gives its express prior consent (see the covering Letter) that some orders may be executed outside these venues where, in the opinion of the Manager, the best possible result can be achieved by doing so.

The Manager will monitor, on a regular basis, the effectiveness of the arrangements in this Section and where necessary, take appropriate remedial action to correct any deficiencies. The Manager will notify the Client of any material changes. These arrangements will also be reviewed whenever a material change occurs and also annually.

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<sup>1</sup> A list is maintained by The Compliance Officer. Trades are only be permitted with brokers on the approved list and the dealing system will automatically reject trades with unapproved brokers.

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Border Asset Management Limited  
Registered in England No 2304039 Registered at above address  
Directors: W.R.G. Bell ♦ The Hon M.D. Benson ♦ F.J.R. Boddy ♦ C.B.L. Cohen  
T.R.H. Kimber (Chairman) ♦ P.G. Lever ♦ H.D. Pring ♦ A.R. White

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