

INFORMATION MEMORANDUM

1 January 2010

THETA DEEP VALUE FUND

Minimum Subscription € 25,000

Theta Fund Management B.V.

IMPORTANT INFORMATION

Prospective participants (“Participants”) should read this Information Memorandum carefully before deciding whether to purchase a participation (the “Participation(s)”) in the Theta Deep Value Fund (the “Fund”) and should pay particular attention to the information set forth under the heading ‘Risk Factors and Conflicts of Interest’.

The investment manager of the Fund is Theta Fund Management B.V. (“Theta”). Theta is responsible for the accuracy and completeness of the information contained in this Information Memorandum.

There is not and will not be any public market for the Participations. The Participations are subject to investment risks, including the possible loss of the entire amount invested. Participants should be aware that redemption of all or part of their investment may be deferred under certain circumstances.

The risks inherent in investment in the Fund are greater than those typically encountered in investing in collective investment vehicles whose financial instruments are traded or listed on a regulated market, multilateral trading facility or any other trading platform. An investment in the Fund is only suitable for experienced investors who appreciate the risks involved, which include the loss of their entire investment. Investment is not suitable for investors who may wish to realize their investment at short notice.

Any representation or information not contained herein must not be relied upon as having been authorised by Theta since no person has been authorised to make any such representation or to provide any such information.

Prospective Participants should not construe the contents of this Information Memorandum as investment, legal, tax, accounting or other advice. In making an investment decision, Participants must rely on their own examination of the Fund, including the merits and risks involved, and on their own representatives, including, but not limited to, their own investment adviser, legal counsel, tax counsel and accountants.

This Information Memorandum should be read in conjunction with the latest (semi) annual report, the contents of which shall be deemed to be part of this Information Memorandum.

This Information Memorandum does not constitute an offer to sell or solicitation of an offer to buy Participations in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. Theta is licensed and subject to supervision in The Netherlands. The Fund is registered for public distribution in The Netherlands only.

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1. KEY INFORMATION AND PARTIES INVOLVED

All capitalized words in this Information Memorandum are defined in article 1 ('Definitions') of the Terms and Conditions of Participation, Management and Custody of the Theta Deep Value Fund (please refer to Exhibit II).

Structure:

Theta Deep Value Fund is a closed mutual fund (*besloten fonds voor gemene rekening*), domiciled in The Netherlands. Theta is regulated under the Dutch Financial Supervision Act (*Wet op het financieel toezicht*). The Fund is structured as an umbrella fund with Sub-Funds.

Each Sub-Fund will issue Participations in Series with reference to a particular Dealing Day. Theta may decide to issue Participations after the Commencement Date in a new separate Series. Within a Sub-Fund, different Classes of Participations may exist. Sub-Funds may have different assets and liabilities in their portfolio's while different Classes in the same Sub-Fund will have the same assets and liabilities, but differ in redemption characteristics and fee-structure, different Series within a Class only have minor differences due to their time of issue.

Investment Objective:

The Fund's investment objective is to generate investment returns of 15% to 20% per annum on a five-year investment horizon. No guarantee is given as to the Fund actually achieving this objective.

Investments:

Investments will be made in hedge funds (collective investment vehicles), partly also engaging in less liquid investment strategies where it may take some time before an investment's inherent value is unlocked, but where the return potential is expected to be significant. To take advantage of these less liquid investment opportunities, some of the Investee Funds of Theta Deep Value Fund will offer only limited redemption facilities to their investors. The Fund's investment mandate includes the opportunity to make co-investments alongside the Investee Funds and to invest in other private structures.

Fund manager:

Theta Fund Management B.V. is regulated by the Netherlands Authority for the Financial Markets (*Autoriteit Financiële Markten*) ("AFM") as a fund manager (*beheerder*). Theta is a 100% subsidiary of Theta Capital Management B.V. Theta Capital Management B.V. is an independent hedge fund investment specialist based in Amsterdam, The Netherlands. As per December 1, 2009, Theta has approximately EUR 500 million in assets under management in various funds of hedge funds and segregated accounts.

Subscriptions:

Participations shall be in registered form and will be issued either for a subscription price of € 1,000 per Participation plus subscription Charge, or at the Net Asset Value plus Subscription Charge. Participations may be issued in an existing or a new Series on each quarterly Dealing Day at the discretion of Theta.

Applications for Participations should be made through the Application Form (provided on the website of Theta), which should be delivered or mailed to the Administrator.

Minimum Subscription:

The minimum initial subscription amount for each Participant is € 25,000.

Valuations:

The Net Asset Value of a Participation will be calculated in accordance with the Terms and Conditions on the last Business Day of each calendar quarter and will be provided by the Administrator.

Reporting:

Participants will receive monthly reporting of the Net Asset Value available from the Administrator. In addition, Theta will provide:

- monthly reports, detailing *inter alia* the total value of the Fund's assets and an overview of the composition of the Fund's assets;
- semi-annual unaudited financial statements; and
- audited annual reports.

Redemptions:

Participations may be redeemed as of the first Dealing Day following 90 calendar days prior written notice to Theta, and subject to restrictions as specified under 'Classes and Fee Structure'.

Theta is not obliged to redeem more than 10% of the total of the Participations in issue in any Sub-Fund on any quarterly Dealing Day.

The minimum value of Participations which may be subject of one redemption request will be the lesser of € 10,000 or 10 Participations.

Minimum Holding:

A request for a partial redemption of Participations may be refused and the holding will be redeemed in its entirety, if, as a result of such partial redemption, the total Net Asset Value of the Participations retained by the Participant would be less than € 25,000.

Annual Accounts Date:

Annual accounts of the Fund will be prepared as per 31 December of each calendar year.

Distribution Policy:

All investment gains, paid out dividends or other distributions by Investee Fund investments will be reinvested within the Fund. However, in case investment opportunities which meet the requirements of the Fund are limited, Theta has the option to make distributions to Participants on a pro-rata basis.

Classes and Fee Structure:

As of the date of the Information Memorandum two Classes are being offered:

1. Class A: 2 year initial hard lock-up, 0.50% Management Fee, and a 10% Incentive Fee
2. Class B: No hard-lock-up, 0.50% Management fee, and a 15% Incentive Fee

Both Classes have 25% investor gates on their redemptions. An investor may redeem 25% of his share balance in the Class as of the Dealing Date and any excess will be redeemed at the next Dealing Day, though again subject to the 25% investor gate. The maximum amount redeemable on any dealing date is calculated in all cases as 25% of the highest share balance on any of the four Dealing Days prior to the redemption notice.

Other Classes currently in issue, but not being offered, are:

3. Class C: 2 year initial hard lock-up, 0.50% Management Fee, and a 15% Incentive Fee
4. Class D: 2 year initial hard lock-up, no Management Fee, and a 15% Incentive Fee
5. Class E: 2 year initial hard lock-up, 0.50% Management Fee, and a 12.5% Incentive Fee
6. Class F: 2 year initial hard lock-up, no Management Fee, and a 12.5% Incentive Fee

Classes C through F have the same redemption terms as Classes A and B described above, with the exception of the hard lock terms which are specific to each Class.

For all Classes, the Incentive Fee is, for each Series, calculated and payable annually and is subject to a hurdle rate of 8% per annum. All Classes have perpetual High Water Marks.

Fund Currency:

The Fund will be denominated in Euro. The Fund hedges the currency risk of investments of hedge funds not denominated in Euro.

Debt Financing:

Theta may borrow for the account, and at the expense, of the Fund to finance Fund Assets, Fund Obligations and Costs. The sum outstanding at any time shall not exceed 30% of the Net Asset Value of the Sub-Fund Assets. Beyond that, Fund Investments may not be financed with any funding (including but not limited to debt funding) other than subscription proceeds received by the Custodian.

Listing:

Participations will not be listed or traded on any regulated market, multilateral trading facility or any other trading platform.

Register:

Theta has delegated the maintenance of the Register to the Administrator. The Register will record the names and addresses of all Participants, the particulars of their Participations in each Sub-Fund, and the manner in which a Participant wishes to receive payments and any distributions.

Each Participant must notify the Administrator promptly of any change in the information referred to above and Theta shall at all times be entitled to rely on the accuracy of the information provided by each Participant to the Administrator in this respect.

Information on parties involved

Fund manager

Theta Fund Management B.V.
Johannes Vermeerstraat 9
1071 DK Amsterdam
The Netherlands

Custodian

Stichting Bewaarder Theta Deep Value
p/a Westblaak 89
3012 KG Rotterdam
Tel.: 0031 (0)10 271 1370

Administrator

TMF FundAdministrators B.V.
Westblaak 89
3012 KG Rotterdam
The Netherlands
Tel.: 00 31 (0)10 271 1370

Legal and Tax Counsel

Greenberg Traurig, LLP
Strawinskylaan 3127
1077 ZX Amsterdam
The Netherlands
Tel: 0031 (0)20 301 73 00

Auditor

Ernst & Young Accountants, LLP
Wassenaarseweg 80
2596 CZ The Hague
The Netherlands

2. INVESTMENT STRATEGY AND POLICY

Key Objectives and Investment Strategy

Theta Deep Value Fund aims to provide high net worth individuals and institutional investors with an investment vehicle which targets above average returns in the range of 15% to 20% per annum on a five-year investment horizon. Theta will attempt to accomplish this objective by investing in a diversified portfolio of hedge funds (collective investment vehicles) and other investment structures, which employ diverse investment styles and strategies.

The Fund focuses on hedge funds engaging in less liquid investment strategies and special situations where it may take some time before an investment's inherent value may be unlocked but where the upside return potential is significant. To take advantage of these less liquid investment opportunities, some of the Investee Funds of Theta Deep Value Fund provide only limited redemption opportunities to their investors.

Theta Deep Value Fund aims to achieve consistent high absolute returns on investment, irrespective of the direction of comparable publicly traded securities, i.e. to have limited correlation to general market risks. By virtue of their event-driven nature, less liquid investment strategies tend to derive most of their return from non-market risks (i.e. returns are less dependent on general market movements in traditional asset classes). As a consequence, the dominant risk in the Fund will be idiosyncratic risk relating to individual positions and individual hedge funds, rather than general market risk or hedge fund strategy risk.

There is no restriction as to the type or concentration of investments that the Fund may acquire or retain. The Fund has a wide investment mandate, enabling it to take advantage of investment opportunities that Theta considers to offer the opportunity for significant potential returns. These may include co-investments alongside Investee Funds and other private investment structures.

The number of hedge funds in which the Fund participates will depend upon the opportunities available and the size of the Fund. Subject to the Fund receiving sufficient Subscriptions, Theta envisages a portfolio of around 10 to 15 hedge funds. No single investment in a fund will represent 20% or more of the book value of the Fund Assets. An important part of the Fund's investments will consist of vehicles managed by hedge fund managers already well-known to Theta in relation to its other investment vehicles. Diversification is achieved through the underlying securities, investment strategies and regions, rather than the number of hedge funds.

The Fund intends to invest primarily in hedge funds based in established on- and offshore financial centres, but will retain the flexibility to invest in funds established in other developing hedge fund markets if and when suitable opportunities arise. The Fund intends, in principle, to invest in funds established by hedge fund managers with strong and consistent track records.

The professionals at Theta have substantial experience with many hedge funds established by leading fund managers, which may be included in the Fund. The role of Theta is helping to gain access to the most promising hedge funds, which are often closed for new subscriptions. There can be no guarantee, however, that Theta will have access to any hedge fund in which it may seek to invest.

The overall success of the Fund depends on (i) the ability of Theta in selecting hedge fund managers and to build a diversified investment portfolio amongst them, (ii) the hedge fund managers' ability to be successful in their strategies. Please be aware that the value of your investment can fluctuate. Historical returns are no guarantee for future performance.

Strategy Descriptions

Due to their active involvement in public markets and opportunistic investment approaches, hedge funds have a good access to quality deal flow in asset classes and sectors (such as private enterprise, physical assets, energy, non-syndicated lending, select real estate opportunities and intellectual property) that have traditionally been the domain of corporate and institutional entities.

Common denominator across these investment strategies is a need for longer-term capital and the provider of this capital aims to gain significant equity-like upside. Therefore, in many cases, the hedge fund manager will prefer to be (partial) owner instead of lender to a company. In these 'special situations' investments, the hedge fund manager may have the ability to set, or to have a significant influence over, the financial and other terms of a proposed investment and may also have a significant influence on the management and strategy of the company in which the hedge fund manager invests. Special situations investments may be listed or unlisted and, even if listed, may be relatively illiquid. Below follows a (non-exhaustive) description of investment strategies that fit into the profile of the Theta Deep Value Fund.

Activist Investing

Hedge funds in this investment strategy may take significant stakes in public companies and work with management to strengthen operational and financial performance. Investments may be in the form of equity, preferred stock, bonds or senior debt with the expectation of an 'event or catalyst' usually within 12-24 months of each investment to realize full value. Due to their direct participation in the event stream, activist managers provide for their own catalyst and, with that, generate real alpha. Some activist hedge funds focus on companies with 'hard tangible assets' which may provide a floor of value in downside markets. An interesting feature of many activist strategies is their strong focus on legal issues, for which the pay-off is uncorrelated to overall market movements.

Specialized Corporate Finance

Based on their industry expertise and corporate finance skills in specific industry sectors, hedge funds in this strategy (partially) take over the role of investment banks or work with banks and/or other hedge funds to structure unique (i.e. non-publicly available) investment opportunities with longer time horizons and higher return expectations. For example, the focus may be on the asset-rich global utilities sector: treatment and distribution of water, electric power and natural gas distribution. Key drivers in this sector are demand growth, industry regulation, environmental legislation and commodity prices. Evolving regulatory regimes, surging M&A activity and the upcoming liberalization of EU power and gas markets will drastically change the corporate landscape, which can provide investment opportunities for industry specialists. In some corporate finance transactions, structuring fees are partly paid in warrants to create an equity-like upside. Some funds may offer co-investment rights to investors on a transaction by transaction basis. This further increases the upside return potential.

Distressed Assets

Hedge funds in this strategy engage in investments in and around the bankruptcy and restructuring process with a primary focus on public or private debt securities. Strategies may be based on obtaining large minority positions (minimum 15% of debt outstanding) which enable hedge funds to take an activist approach and a leading role in restructuring processes. To the extent that this approach also focuses on strategic and operational issues on the target company level, this lengthens the expected holding period of a position considerably. As a result of their active involvement in the restructuring process, hedge funds' investments in public debt securities may evolve into private investments (takeover bids from private equity companies) or any other

'liquidity event' (recapitalization or initial public offering). Regional exposure will be mostly in Europe and Japan which have significant accumulated distressed/deep value assets. A crucial element in this strategy is the hedge fund manager's ability to source interesting deals, using his network of commercial and investment banks and bankruptcy administrators. This strategy also encompasses the financial structuring and servicing of hard assets (real estate, airplanes, power plants etc.), mostly based on significant industry expertise.

Distressed Structured Credit

Structured credit (Collateralized Debt Obligation, CDO) is a diverse asset category with high barriers to entry due to a) importance of understanding the dynamics of priority of payments within CDO structures and b) complexity of modelling the underlying asset cash flows. The global search for yield in recent years has led to indiscriminate buying of structured credit but, once the credit environment becomes negative, deep value distressed opportunities may arise from investor constraints regarding: credit ratings, short-term volatility and potential illiquidity. The deeply fragmented nature of the CDO investor base may further exacerbate cyclical pricing imbalances. In addition, the CDO market is dominated by short-term trading horizons (investment banks & hedge funds) and the availability of longer-term capital will allow a hedge fund manager in this strategy to focus on fundamental value, which is ultimately determined by the cash flows of the underlying collateral.

Emerging Markets

Many traditional investors lack the necessary research capabilities and local knowledge to invest in global emerging markets (EM). Specialist emerging markets hedge funds have local expertise and the flexibility to invest in a wide range of securities, including listed and unlisted equities, debt securities, other collective investment schemes, futures, options and other derivatives. While emerging markets have attracted a massive interest from non-EM investors in recent years this capital is typically short-term in nature. However, the still underbanked and capital-starved regions of some emerging markets offer interesting financing opportunities for providers of longer-term capital. Opportunities include shareholder activism, pre-IPO, selected private equity, mezzanine finance, buy-out and corporate restructuring situations.

Global Energy

As a result of a backlog of investments in production capacity in recent decades, inelastic energy supply meets rising global energy demand. Investments in the energy sector generally fall into discrete and fragmented capital pools from different investors, which may create substantial valuation dislocations. Specialist energy hedge funds may invest in oil & gas supply infrastructure (such as offshore drilling rigs) and these are often private family-owned enterprises. The focus will be on smaller exploration & production companies and projects, since capital is particularly scarce in this area. Hedge funds use strategic investment partners with operating experience to structure investments (operating partnerships) in basic industries, commodity and energy-related sectors and work on potential exit opportunities.

3. RISK FACTORS AND CONFLICTS OF INTEREST

The value of the investment may fluctuate and investors may receive less than what they have invested.

All hedge fund investments risk the loss of capital. No guarantee or representation is made either that the Fund will achieve its investment objectives or that Participants will not suffer loss. An investment in the Fund is highly speculative and involves certain risks and conflicts of interest, which prospective Participants should consider before subscribing. The following discusses certain risks and potential conflicts of interest. The list is not exhaustive and other risks and conflicts not discussed below may arise in connection with the management and operation of the Fund.

Risk Factors

Investments

Investment in the Fund is speculative and entails significant risks. The environment for hedge fund investments is increasingly competitive and an investor should only invest in the Fund if the investor can withstand a total loss of its investment. No guarantee or representation is given that the Fund will achieve its investment objectives.

The Fund expects that certain investments made by hedge funds may experience financial difficulties, which may never be overcome. Hedge funds may utilize highly speculative investment techniques, including but not limited to leverage and highly concentrated portfolios.

The Fund and the Participants will not have the ability to direct the management of Investee Funds or their underlying portfolio investments. As a result, the returns of the Fund will primarily depend on the performance of independent fund managers and could suffer substantial adverse effects by the unfavourable performance of such fund managers.

There are no assurances that the Fund will be able to invest its capital fully, or that sufficient suitable investment opportunities will be identified. For example as a result of market fluctuations, the Fund may at any time invest a substantial amount in a single Investee Fund so that investment concentration occurs. If the Fund receives distributions in kind from any investment, it may incur additional costs and risks to dispose of such assets.

Illiquidity of Portfolio

The redemption of Participations may be limited to 10% of the Participations in issue on any Dealing Day in any Sub-Fund and the right to redeem may be suspended in the event of market disruption or a breakdown in the means employed to value the assets of the Fund. The Fund's interests in hedge funds and the investments made by those funds may in certain circumstances be difficult to realise and may be subject to restrictions on transfer. As some of the Investee Funds in any Sub-Fund may offer only limited redemption opportunities, this may adversely impact the means available to meet the redemption of Participations in a particular Sub-Fund. A (global) market collapse or financial crises may in particular affect the liquidity of the Fund's investments.

Valuation Risk

To the extent that the investments of Investee Funds may in certain circumstances be difficult to realise and may be subject to restrictions on transfer, the sale of any investments may sometimes be possible only at substantial discounts. Further, such investments may be extremely difficult to value. It should be noted that in preparing the quarterly and annual reports, Theta is dependent on the Investee Fund managers and their administrators, both in respect of timing and the contents of the reports. Provisional valuations may sometimes have to be applied. The Investee Funds may engage in privately placed less-liquid investment for which no proper valuation may exist until a transaction is executed.

Concentration Risk

The Fund may have significant exposure to a limited number of hedge funds who, in turn, may have significant exposure to a limited number of positions. As a consequence, the value of the Fund may display a high sensitivity to adverse developments in any particular hedge fund.

Lack of Transferability of Participations

There is and will not be any public market for the Participations. Redemption of Participations may under certain circumstances not be exercisable. Investment in the Fund should therefore only be considered by persons financially able to maintain their investment for an extended period of time and who can afford a loss of all or a substantial part of their investment.

Segregation of Portfolios / Risk of Contagion

Although it is intended to segregate the assets and liabilities relating to each Sub-Fund and it is unlikely that investments will be acquired where the liability relating to a respective Sub-Fund is more than the amount invested (the documentation of any potential hedge fund investments will be reviewed in that respect), there can be no guarantee that, whether or not as a result of third party actions, losses will not be suffered by one Sub-Fund which are properly referable to another Sub-Fund (the Fund cannot oversee the impact of potential changes in (the interpretation of) any applicable laws or regulations on the liabilities for the Fund relating to its hedge fund investments).

Various legal forms of hedge funds

The hedge funds in which the Fund invests may be organised in various legal forms, including but not limited to, partnerships, companies and managed accounts. These differences in legal forms may have differing impacts on the liabilities the Fund may incur in relation to investments in these hedge funds.

Competition

Gaining access to pooled investment vehicles can be problematic given the high level of investor demand some vehicles receive. The business of investing in hedge funds is highly competitive.

Foreign Exchange Risk

Many of the Investee Funds may be exposed to foreign exchange risk. Apart from that, the Fund hedges the currency risk of Investee Funds not denominated in Euro.

Debt financing

Theta may borrow for the account, and at the expense, of the Fund, to finance Fund Assets, Fund Obligations and Costs. The sum outstanding at any time shall not exceed 20% of the book value of the Fund Assets. This leverage may, under certain circumstances, negatively affect the Net Asset Value of the Fund.

Market collapse

Although hedge funds generally aim for a market neutral investment, a global market collapse will affect the Fund.

Default of counterparty or issuing institution

Part of the general investment risk includes default of the counterparty of the Investee Funds and/or default of the issuing institution in whose securities the Investee Funds invest.

Default in settlement and clearing system

Participants may run the risk that clearing and settlement of transactions undertaken for the Fund does not occur as expected, since payment or delivery of the financial instruments by a counterparty does not occur or not in time or as expected.

Risk of custody

The Fund runs the risk that its assets placed in custody may be lost as a result of the liquidation, bankruptcy, insolvency, negligence of or fraudulent activities by the (sub-)custodian appointed by it.

No Management Participation by the Participants

Participants will have no right or power to participate in the management or control of the Fund and thus must depend solely on the ability of Theta with respect to making investments. In addition, Participants will not have an opportunity to evaluate the specific investments made by the Fund or the terms of any investment made by the Fund.

Risk of changes in legislation

Financial and fiscal legislation and regulation are subject to change. Such changes may be unfavourable to the Fund or the Participations and may negatively influence the results of the investment.

Conflicts of Interest

Incentive Fee Compensation

Theta will receive incentive compensation from the Fund. Managers of the Investee Funds are likely to also receive incentive compensation from those funds. As a result, the fee structure imposed by the Fund is higher than if a Participant directly invested in the Investee Fund. Moreover, such a compensation arrangement may create an incentive for Theta or the fund managers of the Investee Funds to make investments that are riskier or more speculative than would be the case if such an arrangement were not in effect.

Achievement of Returns

The success of the Fund will depend on the ability of Theta to identify appropriate Investee Funds and on the ability of the managers of those funds to identify, develop and realise profitable investments. There is no guarantee that the Fund's investments will be successful or that the target rates of return will be achieved and investment results may vary substantially over time and from period to period.

Diverse Participants

Participants in the Fund are expected to include persons or entities organized in various jurisdictions and subject to various tax regimes. As a result, conflicts of interest may arise in connection with decisions made by Theta that may be more beneficial for one type of Participant than for another type of Participant. In selecting investments appropriate for any Sub-Fund, Theta will consider the investment objectives of that Sub-Fund as a whole, not the investment objectives of any Participant individually.

Multiple Layers of Expense

The Fund and the Investee Funds each have expenses and management costs that will be borne, directly or indirectly, by the Fund.

Activities

In the ordinary course of business, Theta and its affiliates are engaged or may be engaged in the management and the advisory of other funds or portfolios of hedge funds, where their interests or the interests of their clients may conflict with the interests of the Fund's Participants. Conflicts of interest may also arise if Theta and / or its affiliates become subject to any merger or acquisition. Theta and its affiliates will, on a best efforts basis, attempt to serve the Participants' interests to the best possible extent should a conflict of interest arise.

By acquiring Participations, each Participant will be deemed to have acknowledged the existence of such actual and potential conflicts of interest and to have waived any claim with respect to any liability arising from the existence of any such conflict.

Other Investment Funds and Proprietary Trading

Theta or its affiliates are, or may in the future be, the fund manager or investment adviser of other private investment funds or pooled investment vehicles of other clients which may have similar objectives to the Fund. Neither Theta nor its affiliates are under any obligation to share any investment opportunity, idea, or strategy with the Fund, and may compete with the Fund for appropriate investment opportunities.

Affiliated persons

The Fund may invest in funds or companies affiliated to Theta.

4. FUND STRUCTURE

The Fund

Theta Deep Value Fund is organized as a closed mutual fund (*besloten fonds voor gemene rekening*) and has been established on June 8, 2006. The seat of the Fund is in Amsterdam, The Netherlands. The Fund is subject to Dutch law. The Fund may consist of Sub-Funds, for which separate portfolios of assets shall be maintained. The Fund may issue Participations in a Sub-Fund in the form of Series on each particular Dealing Day. All benefits and burdens, beneficially attached to the ownership of the Fund Estate relating to a Sub-Fund, shall be in favour or for the account of a Participant in such a Sub-Fund. Within a Sub-Fund, the different Series are organized in Classes.

Participations in different Classes of the same Sub-Fund relate to the same portfolio of assets and liabilities and differ only in the Net Asset Value, the Incentive Fee and Management Fee potentially to be paid, the remaining lock-up period and the redemption conditions depending on the Class in the Sub-Fund. After the end of the first financial year following the expiration of the lock-up period of a particular Series, the Series may be converted into one Series of the same Class in the same Sub-Fund.

Mutual fund

As mentioned, the Fund is organized as a closed mutual fund under Dutch law (*besloten fonds voor gemene rekening*). Under Dutch law, a mutual fund may be considered a contract *sui generis*. The management and custody of the assets of the Fund are governed by the Terms and Conditions. The Terms and Conditions provide that the Terms and Conditions and the arrangements made in connection thereto do not establish a partnership (*maatschap or vennootschap onder firma*) or limited partnership (*commanditaire vennootschap*). Dutch case law and scholars, however, have regularly deemed mutual funds to be partnerships (*maatschappen*). Whether a mutual fund is deemed a partnership or not is of particular importance for the applicability of the legal – statutory – provisions concerning partnerships. One of the most important provisions concerns the pro rata shared liability of the partners in a partnership for obligations assumed in the name of the partnership. In case the Fund and/or the Sub-Funds are deemed to be (separate) partnership(s), it is not certain whether what has been specified under Articles 3.2 and 6.4 of the Terms and Conditions can be invoked against third parties. In view of the investment policy of the Sub-Funds it is not foreseeable that, in practice, a situation will occur in which the Participants are liable for more than the Subscription Price.

Fund Management

The Fund is managed by Theta, a private limited-liability company under Dutch law with its statutory seat in Amsterdam, The Netherlands. Theta outsources certain operational aspects of the management to Theta Capital Management B.V. These operational aspects concern the selection of investments, portfolio constructions and risk management. Beside the Fund, Theta also manages Theta Multistar Fund.

Custodian

Stichting Bewaarder Theta Deep Value Fund (“Custodian”) will be acting as custodian in respect of the legal title to the Fund’s assets. The Custodian has its statutory seat in Amsterdam, The Netherlands, was established on June 8, 2006 and is registered with the trade register of the

Amsterdam Chamber of Commerce under no. 34249833. The board of the Custodian consists of KAS-Trust B.V.

The annual accounts of the Custodian will in principle be prepared within 4 months of the end of its financial year. The annual accounts are available for inspection at the premises of Theta. The articles of association of the Custodian will be available upon request.

The Custodian has delegated the day-to-day execution of its tasks to TMF Global Custody B.V.

The Custodian shall only be liable towards the Fund and the Participants for losses suffered by them to the extent that the losses result from culpable non-performance (*verwijtbare niet-nakoming*) or defective performance (*gebrekkige nakoming*) of its obligations, also in case the Custodian delegated the custody of Fund Assets in whole or partly to a third party.

Management and custody agreement

The terms and conditions of the agreement between Theta and the Custodian concerning the management and custody are laid down in the Terms and Conditions included herein as Exhibit II. At their request, Participants shall be provided, against at a maximum the cost price, a copy of this agreement.

The Administrator

The general administration for the Fund is delegated by Theta to TMF Fund Administrators B.V. (“Administrator”) as third party administrator. Services of the Administrator include the establishing and maintaining of bank and other accounts, processing the issuance and redemption of Participations, maintaining all appropriate investor registers and ledgers, distributing annual and certain other reports to the Participants, preparing and maintaining financial and accounting books and records and maintaining the Fund’s principal administrative records.

Term of the Fund

The Fund has an indefinite term. Theta may terminate the Fund or a Sub-fund at any time, subject to a notice of at least three months to the Participants. Upon dissolving the Fund or the Sub-fund, the cash proceeds from liquidation of the interests in the Investee Funds will be distributed to the Participants.

Distributions

Theta shall have sole discretion whether to distribute any income of the Fund or whether to retain it within the Fund. All investment gains, paid out dividends or other distributions by Investee Funds will be reinvested within the Fund. However, Theta has the option to make distributions, these shall be made to Participants in the relevant Sub-Fund, pro rata to their Participations.

5. PARTICIPATION, SUBSCRIPTIONS AND REDEMPTIONS

Participation

Rights and duties

The rights and duties of a Participant are described in detail in article 9 of the Terms and Conditions.

Pro rata entitlement

Each Participant shall be beneficially entitled to the Fund Estate of a Sub-Fund pro rata to the number of its Participations in that Sub-Fund. All benefits and (subject to Article 6.4 of the Terms and Conditions) burdens, beneficially attached to the ownership of the Fund Estate, shall be in favour and for the account of each Participant pro rata to the number of its Participations in that Sub-Fund.

Form

Participations shall be in registered form only. Certificates shall not be issued.

Transferability

No assignment, sale, transfer, or other disposition of a Participation (whether voluntary or involuntary) shall be valid or effective. Participations cannot be made subject to any pledge, mortgage, usufruct, charge, lien, retention or other encumbrance (*beperkt recht*) of any nature whatsoever.

Voting rights

Each Participation gives an entitlement to one vote in a meeting of Participants of the Fund or in a meeting of Participants of a Sub-Fund, provided, in the latter case, the Participation relates to such Sub-Fund.

No management participation by the Participants

Participants will have no right or power to participate in the management or control of the Fund and thus must depend solely on the ability of Theta with respect to making investments. In addition, Participants will not have an opportunity to evaluate the specific investments made by the Fund or the terms of any investment made by the Fund.

Complaints

Participants may submit complaints regarding the Fund to Theta by regular mail.

Listing

The Participations cannot be listed on any stock exchange nor traded on any regulated market.

Subscriptions

Participants can at the discretion of Theta enter the Fund on a (quarterly) Dealing Day at a Subscription Price equal to € 1,000, or at Net Asset Value, where it regards an existing Series, increased by a Subscription Charge of up to 2%, at the discretion of Theta. The minimum initial subscription amount equals € 25,000.

To participate in the Fund, a Participant must:

- complete and execute an Application Form;
- send this form to the Administrator at least 3 Business Days before the Dealing Day on which the Participant wants to enter the Fund; and
- transfer the total subscription amount to a Fund Bank Account (as advised by Theta), specifying the desired Sub-Fund and Class, if any, at least 2 Business Days before the Dealing Day on which the Participant wants to enter the Fund, unless otherwise agreed by Theta. Should the subscription amount not be paid-in on the Fund's bank account in €, the Fund will convert the relevant currency into € at the expense of the Participant.

Theta reserves the right to accept or reject any application in its sole discretion. Prerequisite for acceptance of applications is provision by the potential investor of information, inter alia, relating to his antecedents, so as to comply with Dutch anti money laundering regulations. Theta endeavours to provide deal confirmations to Participants within 12 Business Days after the Dealing Day.

Series

The Fund may issue Participations in a Sub-Fund in the form of Series of a Class on each particular Dealing Day. Participations in different Classes in a Sub-Fund relate to the same portfolio of assets and liabilities and differ only in the Net Asset Value, the Incentive Fee and Management Fee potentially to be paid and the remaining lock-up period. After the end of the first financial year following the expiration of the lock-up period of a particular Class, the Series may be converted into one Series of the same Sub-Fund.

Theta may where it deems such practicable convert at any Dealing Day all the Participations of any Series into any other Series of the same Sub-Fund.

Redemptions

Participants will have the possibility to redeem Participations starting a (quarterly) Dealing Day following at least 90 calendar days prior written notice given to the Theta and subject to a lock-up period, if applicable.

All redemption requests will be executed subject to a 25% investor gate. Each redemption will be redeemed at a price equal to the Net Asset Value of the relevant Series on the Dealing Day on which the redemption is effected. The investor gate will be calculated as 25% of the highest balance of the Participant's holdings in the relevant Series on any of the four Dealing Days immediately preceding the redemption request. Any excess over the amount of the investor gate will be redeemed at the following Dealing Day subject again to the investor gate. For clarity, this means for example that a Participant wishing to redeem 50% of his holdings will have his request met in full over 2 Dealing Days. A 100% redemption will be met in full over 4 Dealing Days.

Once a redemption request has been accepted by Theta, any costs incurred as a result of withdrawal of the redemption request will be charged to the Participant.

The Fund is not obliged to redeem more than 10% of the total Participations in a Sub-Fund in issue on any Dealing Day.

Issue and redemption of Participations may be suspended by Theta in the event of, inter alia, market disruption or breakdown of means of valuing the Fund.

The minimum Net Asset Value to be redeemed subject to one redemption request should at least equal €10,000 or 10 Participations.

Redemptions may be subject to a redemption charge of up to 1% of the Net Asset Value at the Dealing Day, determined by and due and payable to Theta. The redemption charge may partially be used for expenses relating to the redemption.

Theta endeavours to provide deal confirmations to Participants within 12 Business Days after the relevant Dealing Day of redemption and to distribute redemption proceeds to Participants within 30 Business Days after the Dealing Day.

Suspension of dealings

Situations in which dealings may be suspended

Theta may declare a suspension of valuations and the issue and Redemption of Participations in any Sub-Fund for the whole or any part of a period during which:

- 1) by reason of the closure of or the suspension of trading on any stock exchange or over-the-counter market or any other reason, circumstances exist as a result of which, in the opinion of the Theta, it is not reasonably practicable for the Fund to dispose of investments or fairly to determine the Net Asset Value; or
- 2) a breakdown occurs in any of the means normally employed by Theta in ascertaining the value of investments or any other reason or circumstances exists which in the opinion of Theta means the value of the investments or other assets of the Fund cannot reasonably be ascertained; or
- 3) it is not possible to receive remittances in respect of the investments or to make payments pursuant to a Redemption at all or without undue delay.

Duration of suspension of dealings

Any such suspension shall take effect at such time as Theta shall declare but not later than the close of business on the Business Day next following the declaration and thereafter there shall be no determination of Net Asset Value until Theta shall declare the suspension at an end except that the suspension shall terminate in any event on the first Business Day on which:

- the condition giving rise to the suspension shall have ceased to exist; and
- no other condition shall exist under which suspension is authorised under the Terms and Conditions.

Each such declaration by Theta shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the Fund as shall be in effect at the time. To the extent not inconsistent with such official rules and regulations, the determination of Theta shall be conclusive.

Sufficient guarantees for redemption

Except for statutory provisions providing otherwise or under the circumstances in which the Dealings may be suspended, there are sufficient guarantees to redeem Participations and to repay Participants.

6 COSTS AND EXPENSES

This section provides a summary of article 11 and 14.5 of the Terms and Conditions. Please note that the latest financial statements (both annual and semi-annual) are incorporated by reference in this Information Memorandum and are available on the website of Theta (www.thetacapital.com). Reference is made to these financial statements as regards actual costs incurred by the Fund and allocated to the Sub-Funds. Included in the financial statements are the total expense ratios, which reference the costs as a percentage of the Net Asset Value of the respective Sub-Fund. Additionally, the performances of the Fund Sub-Funds for the last 3 years are included in the financial statements of the Fund. For changes in the net assets for the last 3 years, reference is made to the financial statements of the Fund of the last 3 years, as made available on Theta's website.

Fund Fee Structure

The fee structure relating to the Fund is as follows:

- **Subscription Charge:** Theta may impose a Subscription Charge of up to 2% of the Subscription Price, payable to Theta;
- **Redemption Charge:** Theta may impose a Redemption Charge of up to 1% of the Net Asset Value of the Participations at the Dealing Day on which a redemption is effected, payable to Theta. (Part of) the Redemption Charge will be used for administrative expenses with respect to the redemption;
- **Management Fee:** Theta shall be entitled to receive an annual Management Fee up to a half per cent (0.5%) of the Net Asset Value of a Class (see also *Classes and Fee Structure*). The Management Fee shall accrue on each Dealing Day by reference to the Net Asset Value on that day and be paid quarterly in arrears on, the last Business Day in each of March, June, September and December; and
- **Incentive Fee:** an Incentive Fee shall be payable to Theta calculated and out of each Series in respect of each financial year. The Incentive Fee shall be based on the amount by which the Total Return exceeded the Benchmark Return ('hurdle rate'). See also *Classes and Fee Structure*.

For this purpose, both the Total Return and the Benchmark Return shall be determined in accordance with article 11.3 of the Terms and Conditions, Total Return being the increase in Net Asset Value (before accrual for Incentive Fee) during a financial year and the Benchmark Return being based on a rate of 8 % per annum. No Incentive Fee is charged when the Net Asset Value, including distributions, at the end of a financial year is below the highest Net Asset Value at year-end of any of the previous financial years. All fees are excluding VAT, if and when due.

The Incentive Fee, monthly determined on a pro rata basis and calculated and charged to the Net Asset Value, is paid to Theta once a year, after the end of the financial year of the Fund or at redemption, if applicable.

Classes and Fee Structure:

As of the date of the Information Memorandum there is one Sub-Fund in which 2 Classes are being offered:

- Class A: 2 year initial hard lock-up, 0.50% Management Fee, and a 10% Incentive Fee;
- Class B: No hard-lock-up, 0.50% Management fee, and a 15% Incentive Fee.

Both Classes have 25% investor gates on their redemptions. An investor may redeem 25% of his share balance in the Class as of the Dealing Day and any excess will be redeemed at the next Dealing Day, though again subject to the 25% investor gate. The maximum amount redeemable on any dealing date is calculated in all cases as 25% of the highest share balance on any of the four dealing dates prior to the redemption notice.

Other Classes currently existing, but not newly issued, are:

- Class C: 2 year initial hard lock-up, 0.50% Management Fee, and a 15% Incentive Fee;
- Class D: 2 year initial hard lock-up, no Management Fee, and a 15% Incentive Fee;
- Class E: 2 year initial hard lock-up, 0.50% Management Fee, and a 12.5% Incentive Fee;
- Class F: 2 year initial hard lock-up, no Management Fee, and a 12.5% Incentive Fee.

Classes C through F have the same redemption terms as Classes A and B described above, with the exception of the hard lock terms which are specific to each Class.

For all Classes, the Incentive Fee is, for each Series, calculated and payable annually and is subject to a hurdle rate of 8% per annum. All Classes have perpetual High Water Marks.

COSTS

Custody and Administration Fees

The current annual fee charged by the Custodian (including the fees of TMF Global Custody B.V.) equals 0.04 % of the Net Asset Value of each Sub-Fund and a fixed fee of € 7,500. The current annual fee charged by TMF Fund Administrators B.V. for the Fund's general administration equals € 2,500 per Sub-Fund per year, increased by a variable fee based on the Net Asset Value of the Sub-Fund (0.09% up to €100 million, 0.07% on next 100 million, and 0.06% on Net Asset Value above €200 million). All fees are excluding VAT, if and when due. During the life of the Fund Theta may negotiate changes in these fees without the consent of Participants being required.

Overhead Costs

Theta shall provide, at its own expense, office facilities and staff to facilitate the carrying on of the activities of the Fund.

Expenses and Operating Costs

Operating expenses shall be borne by the Fund, including (but not limited to), costs relating to the acquisition and disposal of investments, the fees and expenses of such attorneys, agents, lawyers, accountants or other advisers as Theta may deem necessary or advisable in relation to the affairs of the Fund, costs relating to the administration of the Fund, advertising and printing expenses, tax compliance costs, the costs of meetings of Participants, auditors' fees, any taxes due by the Fund, interest, bank charges and litigation related expenses.

Audit and other professional fees

The audit fees of the Fund are estimated to be approximately to be € 15,900 (excluding VAT). Other professional fees are estimated to be approximately € 14,000 to 24,000 per year (excluding VAT). The audit fees and other professional fees will be split across the Sub-Funds unless specifically attributable to one Sub-Fund.

Supervisory Costs

Levies of supervisors and costs related to supervision are borne by the Fund and are split equally across the Sub-Funds. The actual supervisory costs due to the Fund vary each year and will be included in the annual accounts.

Cost Overview and Total Expense Ratio

An up to date overview of the various costs regarding the Fund as meant in article 6.1 up to and including 6.14 Annex E of the Market Conduct Supervision (Financial Institutions) Decree and article 5.1 of the Further Regulations on the Supervision of the Conduct of Financial Undertakings (Financial Supervision Act) are included in the most recent annual accounts of the Fund, which can be found on the website of Theta (www.thetacapital.com).

The Total Expense Ratio (TER) is calculated as total costs divided by the average net worth of the respective Sub-Fund where the total costs includes all costs charged to the Fund except interest costs. In 2009 the TER of the Fund was 0.61%. It is expected that the TER of the Fund in 2010 will not differ significantly from the TER in 2009. Currently, the Investee Funds do not calculate an expense ratio, therefore these cannot be taken into account in calculating the TER of the Fund. Furthermore, the portfolio composition and valuation of the Investee Funds change regularly. Therefore, it is not possible to indicate what the respective TER's of the Investee Funds are. For that reason, in calculating the TER of the Fund, the costs of the Investee Funds are not taken into account. However, currently the management fees charged to the Fund by the Investee Funds vary between 0% and 3% of the net asset value of such a fund. The Investee Funds charge performance fees, which vary between 0% and 30% of the net profit of those funds. The subscription and redemption charges which the Investee Funds charged in 2009 vary between 0% and 5% of the amount invested in the respective Investee Funds. The costs of the Investee Funds affect the results of these Investee Funds and consequently influence indirectly the results of the Fund and therefore are reflected in the net asset value of the Fund.

7. THETA

General

Theta has a license under the Wft as manager of investment institutions (*beheerder*). Theta is a 100% subsidiary of Theta Capital Management B.V. Theta Capital Management B.V. is a private limited liability company with its statutory seat in Amsterdam, The Netherlands, incorporated on May 28, 2001, and registered with the Trade Register of the Amsterdam Chamber of Commerce under no 34150519. The managing directors of Theta are Mr. J.T. van Marle and Mr. Tj.J.J. de Vries. The articles of association of Theta are available for inspection at the premises of Theta.

History Theta

Theta is operationally integrated with Theta Capital Management B.V. (“Theta Capital”) of which Theta is wholly owned and fully integrated subsidiary. Theta Capital is an independent discretionary asset manager and investment advisor concentrating exclusively on hedge funds. Theta Capital was founded in 2001 by Tjeerd J. J. de Vries, after a career in treasury management and corporate finance at Rabobank, Achmea and Swiss Bank Corporation (now UBS); and J. Tijo van Marle, an investment banker who was managing director at Credit Suisse First Boston responsible for Benelux countries for the last 15 years prior to founding Theta Capital.

Theta Capital started investing for its clients as of September 1st 2001. Historically, Theta’s clients are mainly the ‘classic’ hedge fund investors, being high net worth private individuals, family offices and trusts, but an increasing part of the assets is managed on behalf of institutional investors. As per December 1, 2009, Theta Capital has (including Theta) approximately €500 million under management, predominantly from clients residing in The Netherlands, the U.K. and Switzerland.

On February 1, 2004, Theta launched the Theta Multistar Fund. This fund invests in a diversified portfolio of hedge funds and is regulated by the AFM. Theta Multistar Fund is the preferred absolute return investment vehicle by many institutional investors, financial intermediaries, and high net worth individuals.

On July 1, 2004, Theta Capital became investment advisor to the Fidessa Alpha Fund, a Luxembourg fund of hedge funds.

On May 1, 2005, Theta Capital launched its first in a range of structured products. Theta Nova Star Note provides a 3.5 times leveraged investment into a Theta low volatility portfolio. A second product, Theta Dynamic Guaranteed Note, was launched on July 1, 2005 and provides a two times leveraged investment into the same Theta low volatility portfolio, with a full capital guarantee at maturity.

On July 1, 2006 Theta launched the Theta Deep Value Fund.

Investment Process

In its investment process, Theta takes a predominantly bottom-up approach reflecting its profound belief that hedge fund managers are well equipped to capitalize on varying market conditions. In other words, Theta does not actively manage its portfolios according to pre-formulated return expectations for the different hedge fund investment strategies. Rather, Theta strives to select managers that have proven the ability to successfully exploit investment opportunities across

various market environments and Theta aims to compose portfolios of hedge funds with fundamentally different risk-return profiles to maximize the benefit of diversification. This approach endeavors to provide Theta's clients with capital appreciation and downside protection, at all times.

Manager Selection and Due Diligence

The objective of Theta's manager selection process is to identify hedge fund managers with superior investment skills that have proven to operate successfully through different market environments. The selection process entails three levels of analysis, each with its own information requirements, documents and criteria. The selection process is supported by several databases, a qualitative information system and various tools (some proprietary) for quantitative fund analysis and stress-testing.

In the *qualitative* due diligence process Theta focuses on:

- independent mind, potential to generate uncorrelated returns, flexibility of investment approach;
- competitive edge in investment strategy, trading style;
- investment process;
- risk management; and
- background and experience.

The objective of performing *quantitative* analysis of a hedge fund track record is twofold: risk analysis and relative return analysis. To allow for the dynamism inherent in a fund's investment strategy, quantitative techniques cannot be applied in a strict and rigid manner, but a healthy dose of common sense and expert judgment is required.

The objective of Theta's *operational* due diligence process is to provide a transparent overview of the infrastructure supporting the trading strategy in terms of:

- people & organization;
- processes & systems; and
- involvement of third party service providers.

Crucial elements in the operational risk assessment are reference checks, evaluation of portfolio marking-to-market and NAV calculations, administrators and prime brokers. Theta's Head of Operations & Finance is responsible for the operational due diligence process.

Portfolio Construction and Risk Management

In its portfolio construction, Theta is driven by the notion that it can only set the level of portfolio risk, and the market will dictate returns. Theta does not apply top-down (tactical) allocation based on relative return expectations across the various hedge fund strategies. Rather, Theta takes a true bottom-up approach where risk parameters on the portfolio level determine the allocation across individual hedge funds. Allocation limits to certain strategies, managers and market risks are applied to control concentration risk. This approach to portfolio construction complements the manager selection process, where Theta strives to select managers that are able to produce positive returns under all market environments. The process embodies an optimization of the portfolio in which Theta aims to minimize concentration risk by focusing on cross-correlations between managers and strategies. Theta believes this disciplined, quantitative approach enables it to engineer risk-return profiles that match the clients' needs and preferences.

Investment Team

Short biographies of the persons involved with the management of the Fund are provided below.

Tijo van Marle obtained a Master of Business Administration (MBA) degree from the Harvard Business School in 1966. He subsequently worked as an investment banker at Pierson, Heldring & Pierson in Amsterdam (1967-1972), J. Henry Schroder Wagg & Co in London as Director International Capital Markets (1972-1982) and in Hong Kong as Managing Director (1982-1984) and from 1984 to 2001 as Managing Director at Credit Suisse First Boston in London and Amsterdam. He has been a director of Theta since January 2001.

Tjeerd de Vries studied at the University of Twente and obtained a baccalaureate and an engineering master's degree in mechanical engineering and business administration (1977), respectively. He subsequently became Treasurer at the Dutch Gasunie (1977-1986), Executive Director at Swiss Bank Corporation International in London and Amsterdam (1986-1989), Director at Bank Labouchère (1990-1993), Assistant Director of Corporate Finance and Capital Markets at Rabobank International (1993-1998) and Director Treasury and Director Corporate Finance at Achmea Bank and Achmea Holding (1998-2001). He has been a director of Theta since January 2001.

Wouter ten Brinke, CFA was a vice president at NIBCcapital before joining Theta in July 2004, where he was responsible for marketing the multi-hedge fund portfolios of Harcourt Investment Consulting to institutional investors in the Benelux. Prior to joining NIBCcapital in 2001, Wouter worked in the Fixed Income group of ABN AMRO in Amsterdam, where he was advising institutional investors on fixed income trading strategies. Before 1999, Wouter held research positions at the Economics Department of ABN AMRO and the Econometric Research Department of the Dutch Central Bank (DNB). Wouter has obtained his master's degree in economics at the University of Amsterdam and holds the CFA Charter.

Ruud Smets, CAIA worked at the interest rate derivatives desk of NIBCcapital before joining Theta in October 2005. Prior to joining NIBCcapital in 2004 Ruud worked at FundPartners, a company focusing on structured product solutions and hedge fund investments for institutional investors, where he was responsible for the hedge fund allocation of a large Dutch pension fund. Ruud has obtained his master's degree in Business Economics and Information Technology from Tilburg University in 2002 and is a Chartered Alternative Investment Analyst (CAIA).

Thomas Heidstra, CFA was a senior account manager for UK hedge funds and long-only institutional funds at Rabo Securities in Amsterdam, before joining Theta. Until November 2004, Thomas worked as a small & mid cap analyst for Benelux equities at Cazenove, one of the UK's leading investment banks in London. From 1998 to 2001, Thomas was a telecoms analyst in the EMEA team at ABN AMRO in London. Thomas has obtained a master's degree in Industrial Engineering and Management from the University of Twente and is a Chartered Financial Analyst.

Marco Smelter was a senior fund manager at Dutch pension fund Mn Services, responsible for managing a portfolio of EUR 7.5 billion in externally managed equity mandates, before joining Theta in July 2006. This portfolio includes US large cap, small cap, emerging markets and Far East equity managers. At Mn services, Marco has gained a vast experience in the selection and monitoring of external asset management boutiques. Prior to becoming a fund manager, Marco worked in the Asset Allocation department of Mn Services. Marco has obtained his master's degree in Business Economics from Erasmus University, Rotterdam in 1998.

Mark Vandertoorn, MBA, CFA, CA was Head of Operations at Fortis Multimanagerment before joining Theta Capital. At Fortis, he was responsible for the administration of all fund of fund products (both alternatives and long-only) of the Fortis Group, with total AUM approx. EUR 5

billion. Mark developed and maintained an operational due diligence program of the fund of hedge fund team. Until June 2004, Mark was at Fortis Fund Services (Curacao) where he supervised a staff of 10-15 accountants on the administration of about 20 hedge funds. Until May 2000, Mark worked in the Forensic Accounting department of Grant Thornton in Toronto, Canada. Mark is a Chartered Accountant (CA), a Chartered Financial Analyst (CFA), and obtained his MBA from McGill University, Montreal, Canada in 1996.

Advisory Board Theta Capital Management

The Advisory Board members represent a diversity of experience with a financial background and experience in the area of investment and divestment decision-making. The members are:

G. Freiherr von Richter is a German Swiss banker who headed first Clariden Bank and thereafter for a long time Bank Sal Oppenheim in Zürich. Although he retired as Chief Executive, he still maintains an office at Sal Oppenheim and continues to invest for his extended client base. Georg has been active in the hedge fund world for a long time and sits on the Board of Leveraged Capital Holdings.

L.H. Wurfbain has spent an important part of his career selecting hedge funds for the three fund of funds launched by Pierson in the early 70's together with Edmond de Rothschild. He is on the boards of Leverage, Asia and Europe Capital Holdings and extensively travels the world to meet and monitor hedge funds. He lives in London and Switzerland. He has been an invaluable source of ideas and we maintain an active dialogue with him about hedge funds and trends in the hedge fund industry.

R. van Rappard is a Managing Partner of CVC, one of the largest private equity groups in Europe, with responsibilities for Northern Europe and Asia. He joined CVC in 1989 having previously worked for Citicorp Corporate Finance in London and Amsterdam. Mr. Van Rappard is a Dutch citizen and holds an MA Degree in Economics from Columbia University, New York and an LLM from the University of Utrecht, Holland. Some individual partners of CVC have entrusted Theta with part of their assets since we started investing on September 1, 2001. With his extensive background in private equity investments, Mr. van Rappard is a valuable and critical advisor to Theta's investment strategy.

R.W.F. van Tets

Rijnhard van Tets holds a master's degree in law from Leiden University and was a member of the managing board of ABN AMRO 1990-2002. His responsibilities have encompassed global corporate- and institutional banking and investment banking. Previously he held positions at First Boston Corporation, Sogen Swiss, (New York), Banque Européenne de Crédit in Brussels and the Société Générale in Paris.

Mr Van Tets has held directorships at the Amsterdam Stock Exchange, Euroclear and the ISMA. Currently he is a managing director of Laaken Asset Management B.V. and the chairman or a member of a number of supervisory boards at public companies and at charitable and academic organisations.

8. REPORTING AND INFORMATION

Financial year

The financial year of the Fund coincides with the calendar year.

Periodical reports

Theta will prepare monthly, semi-annual, and annual written reports on the Fund's portfolio. The reporting currency is the Euro. The annual- and semi-annual reports are available free of charge for the Participants at Theta's office and on its website: www.thetacapital.com.

It should be noted that for the monthly, semi-annual, and annual reports, Theta depends on the administrators of the Investee Fund, both in respect of timing and the contents of the reports. Provisional valuations may sometimes have to be applied and are based on information supplied by the Investee Funds. As soon as audited annual accounts of the Investee Funds are available, any provisional information will be reviewed and necessary adjustments will be made.

Monthly

As soon as reasonably practicable following the last calendar day of each month, Theta will prepare a (unaudited) report, signed by the Custodian, containing the following information:

- the total value of the Fund's assets;
- an overview of the composition of the Fund's assets;
- the number of issued Participations;
- a provisional Net Asset Value attributable to one Participation in each Series as of such Dealing Day;
- the definitive Net Asset Value attributable to one Participation in each Sub-Fund as of the Dealing Day in the previous month; and
- details of the performance of the Sub-Fund over the previous month, over the year to date and since the Commencement Date.

Upon request, a Participant shall be sent, the monthly report to the Participant's (electronic) address.

(Semi-) annual reports

The (semi-)annual reports of the Fund will include the information required pursuant to the Financial Supervision Act (*Wet op het financieel toezicht*) (the "Wft").

The semi-annual report of the Fund is available within 9 weeks of the end of the first half of the financial year. This non audited report contains in any case the semi-annual financial statements.

The annual report will be audited and prepared within 4 months after the end of each financial year. The annual report will be audited by Ernst & Young Accountants or another reputable auditing firm. The annual report includes for each Sub-Fund:

- balance sheet;
- income statement;
- explanatory notes;
- statement of the investments acquired, sold or otherwise disposed of during the financial year and a report by Theta expressing its opinion on the value of the investments held at the end of the financial year; and

- a specification of the composition of each Sub-Fund by an Investee Fund in percentages of that portfolio for all Investee Funds which represent more than 2 % of the value of that Sub-Fund.

The annual accounts of the Fund are in principle based on audited annual accounts of the Investee Funds. Deviation from this general rule is possible when the audited accounts of the Investee Funds are not received in time. If that is the case, and also in the case that an Investee Fund in which a Sub-Fund participates has a different year-end date, an estimate of the Net Asset Value of that particular Investee Fund provided by that Investee Fund will be used. The external auditor of the Fund will be asked to express an opinion about the relevance of the use of this estimate for the accuracy of the accounts of the Fund.

Portfolio Valuation/Determination of Results

General

The accounts of the Fund will be prepared in accordance with Dutch Generally Accepted Accounting Principles. The Fund's investments in Investee Funds will be valued based on the reporting received from the administrators of those funds, unless considered inappropriate by Theta. The value of investments in Investee Funds will generally be taken as the aggregate of the Fund's attributable share of the latest available net asset value of such Investee Funds, where it is the intention to base the Net Asset Value of the Fund on the fair value of the financial assets and liabilities of the Fund. Theta may, if it thinks fit, make adjustments as a result of the different bases of valuation applied by the Investee Funds, which will be reflected and explained in the accounts. The establishment costs will be capitalized and amortized over a 2-year period. For a corresponding amount, a legal reserve will be held. The Fund's other assets and liabilities will generally be valued at nominal value, unless a permanent impairment occurs.

The result of the Fund on its Investee Funds will generally be taken as the aggregate of the Fund's attributable share of the result of the Investee Funds. Theta may, if it thinks fit, make adjustments as a result of the different bases of determination of results applied by the Investee Funds, which will be reflected and explained in the accounts. The results made on the Fund's other assets and liabilities will generally be taken into account in the period to which they relate.

Where an up-to-date value of an Investee Fund is not available, or the valuation date does not coincide with that of the Fund, Theta will use an estimated value.

Assessment and publication of Net Asset Value

As of each Dealing Day, Theta shall determine the Net Asset Value, in accordance with article 12 of the Terms and Conditions. The Net Asset Value shall be expressed in Euro or, in the case of Sub-Funds valued in another currency, in such currency as may have been designated by Theta. The Net Asset Value of a Participation will be calculated in accordance with the Terms and Conditions on the Dealing Day and will be provided by the Administrator. The Net Asset Value is published on the website of Theta.

Compensation

Where an up-to-date value of an underlying investment is not available, or the valuation date does not coincide with that of the Fund, Theta will use an estimated value. Any valuation made (pursuant to the Terms and Conditions) shall be binding on all Participants. However, Theta will cause the Fund to revise any final valuation for the Sub-Fund's should they be found to be in error by more than 0.50% of

the Net Asset Value attributable to one Participation and will assess whether claiming compensation is appropriate taking into account the costs and benefits thereof.

Documents for inspection

The License granted by the AFM to Theta and the Terms and Conditions may be inspected at the office of Theta and are made available on the website of Theta. At request, any person shall be provided with a free copy of the Terms and Conditions. At their request, Participants shall be provided, against at a maximum the cost price, a copy of the License.

Upon request, any person shall be provided, against at a maximum the cost price, the information concerning Theta and the Custodian which on a mandatory basis needs to be included in the Trade Register (*Handelsregister*).

Notice of distributions

The announcement of payment of distributions, if any, the composition of the distributions and the way the distributions will be paid, shall be sent to the (electronic) addresses of Participants and published on the website of the Theta.

9. TAXATION / LEGAL

Taxation General

Prospective Participants are urged to consult their own professional advisers regarding the possible tax and legal consequences of acquiring, holding or disposing of Participations under the laws of the jurisdictions of which they are citizens, residents or domiciliaries and in which they conduct business. The Fund has been structured so as to reduce as much as possible the additional tax cost compared to a direct investment by the Participants in the Investee Funds (which generally are not directly accessible to the Participants).

Taxation of the Fund

The Fund aims to qualify as a closed mutual fund for tax purposes being exempted from corporate income tax. Theta and the Custodian shall use reasonable endeavours to assist Participants in obtaining the benefit of any tax exemptions applicable to investments made by the Fund and any tax refunds available in respect of tax withheld from sums receivable by the Fund. Theta and the Custodian shall not be obliged to seek any exemption or refund where the effort or expense would be disproportionate to the sums likely might be recovered. If Theta thinks fit, the amount distributable to any Participant may take into account the availability of tax exemptions or refunds attributable to him and to the rate of withholding applicable to him.

Taxation of Participants – The Netherlands

Dutch resident private individual Participants will generally be taxed annually on a notional income of 4% of their net investment assets, including any Participations, at a rate of 30%, regardless of whether any dividends are received or any capital gains are realised with respect to the Participations.

For Dutch resident institutional Participants that are subject to corporate income tax, both income and capital gains/losses, as determined by Dutch fiscal law, relating to the Fund are taxed/deductible at the regular corporate income tax rate, unless the Dutch participation exemption can be claimed upon such income and/or capital gains.

Non-Dutch resident Participants who derive income from Participations or who realise a gain on the disposal or redemption of Participations will not be subject to Dutch taxation on income or capital gains unless:

- (a) such income or gain is attributable to an enterprise or part thereof which is carried on through a permanent establishment or permanent representative in The Netherlands; or
- (b) such income or gain is attributable to activities carried out by the non Dutch resident Participant in The Netherlands and such activities exceed 'normal investment activities'.

As to (b) above any applicable tax treaty between the jurisdiction of residence of the non-Dutch resident Investor and The Netherlands will generally prevent The Netherlands from actually levying any tax.

To the extent the Fund invests in Dutch resident entities, Dutch dividend withholding tax may be due upon dividends distributed by these entities via the Fund to the Participants. The dividend withholding tax rate may be reduced under the applicability of a tax treaty concluded by The Netherlands and the jurisdictions of which the Participants are tax resident.

Legal

General

The Documentation relating to the Fund consists of:

- Terms and Conditions of Participation, Management and Custody (Exhibit II); and
- Application Form (which is available on Theta's website: www.thetacapital.com).

Amendment of Terms and Conditions

The Terms and Conditions may be amended by Theta and the Custodian without the consent of the Participants unless the amendment involves:

- (i) a change in the Investment Objectives;
- (ii) an increase of the fees of Theta;
- (iii) any negative change in the Terms and Conditions relating to the redemption of Participations, which requires the prior consent of the Participants through an Ordinary Resolution.

Theta will inform the Participants of the text of an (proposed) amendment of the Terms and Conditions at least thirty (30) calendar days before the day on which the (proposed) amendment shall come into effect. Such notice and an explanation thereto is also published on the website of Theta. In the case of an approval by Participants, notice thereof will be sent to all Participants, and will be published, along with an explanation of the amendment, on the website of Theta.

Furthermore, any change in the Terms and Conditions which causes a reduction in the Participants' rights or security or imposes costs upon Participants or involves a change in the Investment Objectives, does not become effective until three (3) months after the date (of approval) of the change and during this period Participants shall be entitled to redeem their Participations under the then existing conditions. In particular, the provisions on Redemption, as referred to in article 14 of the Terms and Conditions shall apply to any such Redemption.

Termination and winding up

General conditions for termination

Although the Fund has an indefinite duration, it shall be terminated on the bankruptcy, dissolution or liquidation of the Theta unless the appointment of a replacement Theta is approved by an Ordinary Resolution.

Termination on sanction of Special Resolution

The Fund may also be terminated at any time with the sanction of a Special Resolution, upon the Theta committing fraud, illegal acts, gross negligence (*grove schuld*), wilful default (*opzet*) or material breach of these Terms and Conditions which is not remedied within a reasonable period of time. Furthermore, it may be terminated with the consent of Theta and the sanction of a Special Resolution, or on not less than a three month's Notice by Theta to the Participants.

Termination on sanction of Ordinary Resolution

Theta may also (with the consent of an Ordinary Resolution) by notice in writing to the Participants, terminate the Fund at any time if in its reasonable opinion it would be impracticable, unlawful or inadvisable to continue.

Winding-up

Upon termination or dissolution of the Fund or a Sub-Fund, no further business shall be conducted for the Fund or that Sub-Fund (as the case may be), except for such actions as shall be necessary for the

winding up of the affairs of the Fund or that Sub-Fund and the distribution of the Fund Assets which shall be effected by Theta.

Terms and Conditions

During the liquidation period the Terms and Conditions shall, to the extent possible, remain in full force and effect. The balance left after the liquidation shall be distributed in accordance with the provisions specified in the Terms and Conditions. Notice that distributions are to be made payable to the Participants and the composition of the distributions or collections shall be given in accordance with the provisions as specified by Article 16 Terms and Conditions. Theta shall duly render accounts to the Participants before making any distributions.

Auditor's certificate

Theta shall prepare liquidation accounts, which shall be accompanied by a certificate of an auditor. Approval of those liquidation accounts by a meeting of Participants shall constitute, upon approval by Special Resolution, a discharge of the Custodian and Theta.

Meeting of Participants

Meeting of Participants

Theta may, as often as it deems necessary in the interest of the Participants, convene a meeting of all Participants or of the Participants in one or more Sub-Funds. The meetings will be held in Amsterdam or another place to be determined by Theta. Notice for a meeting will be given in accordance with Article 16 of the Terms and Conditions at least fourteen (14) days prior to the meeting and will state the date, time, place and agenda for the meeting.

Notification for attending

Participants wishing to attend a meeting must notify Theta thereof in writing no later than five (5) Business Days prior to the meeting. Participants, which have so notified Theta, are entitled to be heard at the meeting and to exercise their voting rights.

Procedure at meetings

Theta shall appoint a chairman and a secretary for each meeting. The chairman shall be responsible for determining the procedure to be adopted for the conduct of any meeting Participants. The secretary shall be responsible for the preparation of minutes of the meeting.

Voting rights

Each Participation entitles to one vote in a meeting of Participants.

10. IMPORTANT INFORMATION

Default / Creditworthiness / Negative Tax Implications

If a Participant fails to fulfil any of its obligations under the Terms and Conditions, Theta may, in addition to any other rights afforded by law, undertake certain (legal) actions.

Also, pursuant to article 14.2.2 of the Terms and Conditions, if the tax status of the Fund Estate, Custodian or the other Participants is negatively affected by the tax status of that particular Participant, Theta is entitled to redeem that Participant's Participations.

Related Party transactions

There will be no related party transactions, except for possible trades with other fund-of-funds managed by Theta. Such transactions are not concluded at a regulated market or another market in financial instruments, but will always be at the net asset value of the underlying fund and therefore on market-based terms and conditions. All such transactions will be based in all cases on an independent valuation, but a valuation by one or more of the parties involved in the transaction is also possible.

Personal Data Protection Act

Theta will ensure that personal data that has been collected and processed in connection with the Fund, will be treated confidentially. Theta will comply with the Personal Data Protection Act (*Wet bescherming persoonsgegevens*) and has notified the Dutch Data Protection Authority (*College bescherming persoonsgegevens*) of the processing of personal data.

Personal data of Participants are collected and processed. Theta and the Custodian will use the personal data in connection with their duties as mentioned in the Terms and Conditions and the Information Memorandum. The personal data will not be shared with third parties, unless this is necessary to carry out the duties under the Terms and Conditions and the Information Memorandum or when statutory provisions make it mandatory to share such information with third parties.

Voting policy

As a fund-of-funds, the Fund normally does not have voting rights in other enterprises. Occasionally, Theta is asked to vote regarding corporate actions of a Investee Fund. In such a case Theta will vote in manner as is deemed in the best interest of the Fund.

Information

To the best of the knowledge and believe of Theta Fund Management B.V., all the information in this Information Memorandum is in accordance with the truth and no information has been omitted that would significantly change the contents of this Information Memorandum. Both Theta, the Fund and the Custodian comply with the rules under or pursuant to the Financial Supervision Act (*Wet op het financieel toezicht*).

UNQUALIFIED ASSURANCE REPORT

Introduction and responsibilities

We have performed an assurance engagement concerning the content of the offering Prospectus of Theta Deep Value Fund, Amsterdam. In connection with this, we examined whether the Prospectus dated January 1, 2009 contains at least the information required under Section 4:49 (2)(a) to (2)(e) of the Financial Supervision Act. This assurance engagement focuses on obtaining reasonable assurance.

Pursuant to Section 4:49 (2)(a) of the Financial Supervision Act, the Prospectus must contain all the information required by investors to enable them to form an opinion on the investment institution and the related costs and risks. Since the nature of the information required by individual investors is unknown, it is impossible to determine whether the information to be included is complete.

The responsibilities were allocated as described below.

- The manager of Theta Deep Value Fund is responsible for drawing up the Prospectus of Theta Deep Value Fund containing at least the information required pursuant to the Financial Supervision Act;
- Our responsibility is to express a conclusion as referred to in Section 4:49 (2)(c) of the Financial Supervision Act.

Scope

We conducted our examination in accordance with Dutch law, including Standard 3000, "Assurance Engagements Other Than Audits or Reviews of Historical Financial Information". Based on the foregoing, we performed the procedures we deemed necessary in the circumstances to express a conclusion.

We checked, as far as was reasonably possible, whether the Prospectus contained the information required under Section 4:49 (2)(a) to (2)(e) of the Financial Supervision Act.

Conclusion

Based on our procedures performed and the matters discussed in the Introduction and responsibilities section of this report, we conclude that, in our opinion, the Prospectus contains at least the information required under Section 4:49 (2)(a) to (2)(e) of the Financial Supervision Act.

The Hague, 1 January 2010

Ernst & Young Accountants LLP

Signed by drs. R.J. Bleijs RA

EXHIBIT I

REGISTRATION DOCUMENT THETA FUND MANAGEMENT B.V. (“THETA”)

I Information regarding the activities of Theta

This is the registration document for Theta Fund Management B.V. (“Theta”), acting as fund manager, as referred to in article 4:48 of the Financial Supervision Act -Wet op het financieel toezicht (“Wft”) and article 117 of the Business Conduct Financial Undertakings Supervision Decree, as mentioned in Appendix D thereto.

Theta’s activities consist of managing funds as described below.

b. The following funds are being managed by Theta

- Theta Multistar Fund, a semi open-ended fund of funds; and
- Theta Deep Value Fund, which is also a semi open-ended fund of funds.

II Information regarding the directors of Theta and the Custodians

Theta

The persons that form the day-to-day management of Theta are:

- Mr. J.T. (Tijo) van Marle; and
- Mr. T.J.J. (Tjeerd) de Vries.

None of the persons above performs activities outside Theta that have a connection with the operations of Theta, the Fund and / or the Custodian.

Custodians

The persons that form the day-to-day management of the Custodians are:

- Mr. J.N.P. Laan;
- Mr. H. Brink; and
- Mr. R.F. Kok.

None of the persons above performs activities outside Theta that have a connection with the operations of Theta, the Fund and / or the Custodian.

III General data regarding Theta and the Custodians

Theta

Name:	Theta Fund Management B.V.
Legal form:	Private limited liability company (<i>besloten vennootschap met beperkte aansprakelijkheid</i>)
Seat:	Amsterdam

Date of incorporation: May 9, 2001
Reg.Nr. Chamber of Commerce: 27198870
Place of Registration: Chamber of Commerce for Amsterdam.

Theta is a 100% subsidiary of Theta Capital Management B.V.

Custodians

Custodian of Theta Multistar Fund:

Name: KAS-Trust Bewaarder Theta Multistar Fund B.V.
Legal form: Private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*)
Seat: Amsterdam
Date of incorporation: October 14, 2005
Reg.Nr. Chamber of Commerce: 34237093
Place of Registration: Chamber of Commerce for Amsterdam.

KAS-Trust Bewaarder Theta Multistar Fund B.V. is a 100% subsidiary of KAS BANK N.V.

Custodian of Theta Deep Value Fund:

Name: Stichting Bewaarder Theta Deep Value Fund
Legal Form: Trust (*Stichting*)
Seat: Amsterdam
Established: June 8, 2006
Reg. Nr. Chamber of Commerce: 34249833.
Place of Registration: Chamber of Commerce for Amsterdam

The board of Stichting Bewaarder Theta Deep Value Fund consists of KAS-Trust B.V.

The annual accounts of the Custodians will in principle be prepared within 4 months of the end of their respective financial years and will be audited. The annual accounts are available for inspection at the premises of Theta. The articles of association of the Custodians will be available upon request.

IV Financial information

Auditor's declarations on minimum net capital:

The auditors for Theta and the Custodians have submitted declarations that the net capital requirements of Theta and the Custodians, as referred to in article 3:53 Wft, have been satisfied. Such declarations are available at the website of Theta.

Auditor's declaration on annual accounts of Theta and Custodians:

The respective (consolidated) annual accounts of Theta and the Custodians have been audited by Theta's and Custodians' respective auditors. The most recent declaration from each of the auditors is available at Theta's website.

V Information on reporting

Theta will prepare monthly, semi-annual, and annual written reports on the Fund's portfolios. The reporting currency will be Euro.

The financial year of Theta and the financial year of the Custodians are equal to the calendar year. Theta will finalize its annual accounts within four months after each year-end.

The articles of association, the annual accounts, and the annual report of Theta and the Custodians and the semi-annual accounts of Theta are made available on Theta's website: www.thetacapital.com. At request of a Participant, Theta shall send copies of these documents free of charge to the Participant's (electronic) address.

VI Information regarding replacement of Theta or the Custodian.

For both Theta Multistar Fund and Theta Deep Value Fund the following applies:

According to the Terms and Conditions, neither Theta nor the Custodian shall be entitled to resign unless replaced by a successor with the sanction of an ordinary resolution. The meeting of Participants needs to be held within 4 (four) weeks after the notice by the Custodian or Theta of their respective intentions to resign. Only Theta may nominate a Custodian for appointment as successor.

In addition to that, Theta may be removed from office and a new fund manager may be appointed, by special resolution, in the event of fraud, illegal acts, gross negligence (*grove schuld*), wilful default (*opzet*) or a material breach (not remedied within one hundred and twenty (120) days of a Participant giving notice to Theta requiring it to do so) by Theta in carrying out its obligations under the Terms and Conditions.

Theta declares that it will give notice of a request to Dutch Financial Markets Authority (*Autoriteit Financiële Markten*) pursuant to article 1:104(1)a of the Financial Supervision Act (*Wet op het financieel toezicht*) to withdraw its license at the (electronic) address of each Participant as well as on its website.

Exhibit II

Terms and Conditions of Participation, Management and Custody

1 Definitions

1.1 The following terms have the definitions hereinafter indicated whenever used in these Terms and Conditions with initial capital letters:

‘Administrator’ means TMF Fund Administrators B.V. or such other entity as may be appointed as administrator of the Fund by the Fund Manager, from time to time;

‘Annual Management Fee’ means the fee payable to the Fund Manager under Article 11.1;

‘Application Form’ means the form of application or subscription to participate in the Fund completed by a Participant;

‘Benchmark Return’ means the increase in a financial year of the Net Asset Value of a Class calculated on the basis of a return rate of 8% per annum;

‘Business Day’ means a day on which banks are generally open for business in both Amsterdam and New York City;

‘Cash’ means cash in any currency held in interest bearing call accounts or bank deposits;

‘Cash Equivalents’ means money market instruments in any currency which are regularly negotiated and which have a residual maturity of twelve (12) months or less;

‘Class’ means a separate class of Participations within a Sub-Fund each having equal rights and obligations and a Net Asset Value that can only differ due to a different moment of issue of the respective Series;

‘Commencement Date’ means, in relation to any Sub-Fund, the date upon which Participations in that Sub-Fund are first issued;

‘Costs’ means all costs, fees and expenses incurred by or charged to the Custodian or the Fund Manager in connection with the Fund Estate;

‘Custodian’ means the custodian of the Fund, being Stichting Bewaarder Theta Deep Value Fund or such other custodian of the Fund Estate as may be appointed in accordance with the Terms and Conditions, from time to time;

‘Custodian Articles’ means the articles of association (*statuten*) of the Custodian as these may be amended from time to time;

‘Dealing Day’ means the last Business Day in each calendar quarter and such other days as the Fund Manager may determine;

‘Fund’ means the contractual arrangements between the Participants, Fund Manager and the Custodian in relation to the participation in and the management, custody and administration of the Fund as governed by the Terms and Conditions and the Application Form, also referred to as the Theta Deep Value Fund;

‘Fund Assets’ means the Fund Means and the Fund Investments relating to a Sub-Fund;

‘Fund Bank Account’ means a bank account in the name of the Custodian for the account of the Fund;

‘Fund Estate’ in relation to any Sub-Fund, means the totality of the Fund Assets and the Fund Obligations relating to that Sub-Fund;

‘Fund Investments’ means all Securities and/or other assets (*goederen*) other than Fund Means that are acquired and held by the Custodian for a Sub-Fund in its own name on behalf and for the account of the Participants in connection with the Fund;

‘Fund Manager’ means Theta Fund Management B.V. or an affiliate thereof or such other investment manager, as may be appointed by the Participants from time to time in accordance with Article 6;

‘Fund Means’ means Cash and Cash Equivalents;

‘Fund Obligations’ means the liabilities which the Custodian (or the Fund Manager, whether or not on behalf of the Custodian) assumes and/or incurs in its own name on behalf and for the account of the Fund;

‘Incentive Fee’ means the fee payable to the Fund Manager under Article 11.3;

‘Interested Party’ means the Fund Manager, its associates and its respective directors, officers, shareholders or partners;

‘Investee Fund’ means a company, partnership, mutual fund or other pooled investment vehicle in, or Managed Account through, which the Fund has made an investment;

‘Information Memorandum’ means the prevailing information memorandum relating to the Fund;

‘Investment Objectives’ means the investment objectives of a Sub-Fund and the restrictions imposed on the Fund Manager referred to in the Information Memorandum, as amended from time to time;

‘License’ means the license as asset manager of the Fund Manager under the applicable financial supervision laws;

‘Linked Fund’ means a collective investment vehicle or investment portfolio managed or advised by the Fund Manager and investing in parallel with the Fund, as described in Article 18;

‘Managed Account’ a segregated portfolio of assets placed with a portfolio manager for discretionary management by such portfolio manager on behalf of a Sub-Fund;

‘Minimum Holding’ means the minimum value of the Participations in the Fund which may be held or initially acquired by any Participant, as determined by the Fund Manager from time to time;

‘Net Asset Value’ means the net asset value of a Participation, Series, Class, Sub-Fund or the Fund as determined in accordance with the provisions of Article 12 calculated to two (2) decimal places;

‘Ordinary Resolution’ means a resolution (a) in writing (which may consist of one or more documents in like form each signed by one or more Participants) signed by Participants whose Participations represent in excess of fifty per cent. (50%) of the total Participations or (b) passed at a meeting of Participants by Participants whose Participations represent in excess of fifty per cent. (50%) of the total Participations;

‘Participants’ means the persons or entities which participate in the Fund in accordance with the terms of the Application Form and the Terms and Conditions;

‘Participations’ means the units in which the rights of the Participants to the Fund Estate have been divided, each Participation representing an equal interest in the Fund Estate without priority or preference one over the other;

‘Redemption’ means the redemption of a Participation;

‘Register’ means a register maintained by the Fund Manager for the administration of the Participations and Participants;

‘Securities’ means ordinary shares, preference shares, convertible securities or other securities or interests in a company or entity, including but not limited to any Investee Fund;

‘Series’ means a series of Participations of the same Class issued on particular day within a Sub-Fund;

‘Special Resolution’ means a resolution:

(a) in writing (which may consist of one or more documents in like form each signed by one or more Participants) signed by Participants whose Participations represent seventy-five per cent. (75%) or more of the total Participations; or

(b) passed at a meeting of Participants by Participants whose Participations represent seventy-five per cent. (75%) or more of the total Participations;

‘Subscription Charge’ means the subscription charge due by a Participant;

‘Subscription Price’ means the subscription price payable for the acquisition of a Participation;

‘Sub-Fund’ means a sub-fund of the Fund and may include any Class and/or Series which the Fund Manager may decide to establish from time to time;

‘Terms and Conditions’ means the terms and conditions of participation, management and custody of the Fund set forth herein and as amended from time to time; and

‘Total Return’ means the increase of the Net Asset Value of a Class as at the end of the financial year over its level at the beginning of the year (after deduction of all expenses and liabilities allocated to a Class before deduction of the Incentive Fee).

- 1.2 Unless the context requires otherwise, references to Articles are to articles of these Terms and Conditions.

2 Name

- 2.1 The name of the Fund is: Theta Deep Value Fund.

3 Objects, Sub-Funds, Classes and Series

- 3.1 The Fund is a closed mutual fund (*besloten fonds voor gemene rekening*). These Terms and Conditions and the arrangements made in connection herewith do not establish a partnership (*maatschap* or *vennootschap onder firma*) or limited partnership (*commanditaire vennootschap*).
- 3.2 The Fund may consist of Sub-Funds. If any, a separate portfolio of assets shall be maintained for each Sub-Fund and, save as expressly required by the Terms and Conditions, the Fund Assets of any Sub-Fund shall be available only to meet the liabilities relating to that Sub-Fund and not those of any other Sub-Fund.
- 3.3 A Sub-Fund may consist of Classes and Series having the same investment objectives and policies and underlying assets as all other Classes and Series, but in addition thereto may have different rights and obligations, in particular in

relation to the effective applicable Incentive Fee, and have a different Net Asset Value.

- 3.4 The Fund Manager may where it deems such practicable convert at any Dealing Day all the Participations of any Series into any other Series of the same Sub-Fund.

4 Subscriptions

- 4.1 Participations in each Sub-Fund shall be offered on the Commencement Date at an initial fixed Subscription Price of € 1,000 each plus the Subscription Charge or at Net Asset Value plus the Subscription Charge.
- 4.2 Participations may be issued in Series on any subsequent Dealing Day after payment to the Custodian of a Subscription Price equal to € 1,000 plus the Subscription Charge. Payment must be made to the relevant Fund Bank Account in accordance with the Information Memorandum for value at least two (2) Business Days before the Dealing Day, unless otherwise agreed by the Fund Manager.
- 4.3 Fractional Participations may be issued at the discretion of the Fund Manager.
- 4.4 The Fund Manager may, at its sole discretion, suspend the issue of new Participations or reject any subscription for Participations in whole or in part and return subscription moneys to applicants without interest.
- 4.5 The Fund Manager may, at its discretion, agree to accept the transfer of Securities to the Fund, by way of exchange, in satisfaction of the Subscription Price payable. Any such Securities will be valued in accordance with the valuation principles applied by the Fund.

5 Custody

- 5.1 All the Fund Assets shall be legally owned by, and will be administered in the name of, the Custodian.
- 5.2 The Custodian shall:
- 5.2.1 acquire and hold the Fund Assets for the purpose of management and custody (*ten titel van beheer en bewaring*) on behalf and for the account of the Participants;
- 5.2.2 act solely in the interests of the Participants;
- 5.2.3 not acquire any assets or assume any obligations for its own account or for the account of third parties who or which are not Participants;
- 5.2.4 act only in accordance with instructions that have been conveyed to the Custodian in such manner as may be agreed from time to time between the Fund Manager and the Custodian;
- 5.2.5 only surrender documents of value deposited for safe-keeping against receipt of a declaration of the Fund Manager stating that surrender is required for the regular performance of the management of the Fund;
- 5.2.6 open and maintain Fund Bank Accounts for each Sub-Fund and the Fund as a whole with such bank or banks as the Fund Manager may from time to time select;
- 5.2.7 shall hold all uninvested monies of the Fund in such accounts;

- 5.2.8 insofar as sufficient uninvested monies are available for the purpose in the relevant Fund Estate, pay for and receive all Investments purchased for the account of the Sub-Funds;
- 5.2.9 from time to time, for the account of the Participants in the relevant Sub-Fund, hold or procure to be held all documents of title to or evidencing ownership of Fund Investments and shall use its best endeavours to procure that such Fund Investments (other than Fund Investments transferable by delivery (if any)) shall as soon as practicable after receipt of the necessary documents by the Custodian be registered in the name of the Custodian or in the name of a nominee of the Custodian or in the name of a sub-custodian or a nominee of a sub-custodian with a suitable designation and Fund Investments transferable by delivery shall be dealt with as the Custodian may think proper for the purpose of providing for the safe keeping thereof;
- 5.2.10 on receipt of instructions from the Fund Manager make or arrange for the delivery of the documents of title to or evidencing ownership of Fund Investments which have been sold;
- 5.2.11 collect, receive and deposit in Fund Bank Accounts all income and other payments with respect to the Fund Investments and all other payments due to the Fund and shall execute such ownership and other certificates and other claim forms as shall from time to time be required for fiscal and tax purposes and shall pay any taxes it is required to pay in connection therewith (all such payments being debited to the Fund Bank Accounts) the Fund Investments being security for the due payment of the same;
- 5.2.12 present for payment all coupons and other income payments requiring presentation;
- 5.2.13 present for repayment all Fund Investments which may mature or be called, redeemed or otherwise become repayable;
- 5.2.14 pay or cause to be paid insofar as sufficient uninvested monies are available for the purpose, such bills, statements or other obligations of the Fund as may be approved generally, or from time to time, by the Fund Manager; and
- 5.2.15 without delay forward to the Fund Manager all notices of meetings, reports, circulars and other documents and correspondence received by it or its nominee as holder of any Fund Investment and shall (so far as it is able) upon the written request of the Fund Manager from time to time execute and deliver or cause to be executed or delivered to the Fund Manager or its nominee such powers of attorney or proxies as may reasonably be required in such name or names as the Fund Manager may reasonably request authorising such attorneys and proxies to vote, consent or otherwise act in respect of all or any part of the Fund Investments; and carry out any additional duties as from time to time and at any time agreed mutually between the Fund Manager and the Custodian.
- 5.3 The Custodian shall only be liable towards the Fund and the Participants for direct losses suffered to the extent that the losses result from culpable non-performance or defective performance of its obligations, also in case the Custodian delegated the custody of Fund Assets in whole or part to a third party.
- 5.4 The Custodian shall not be entitled to resign without the appointment of a new custodian in his place by an Ordinary Resolution. If the Custodian notifies the Fund Manager of its wish to resign, the Fund Manager shall within 4 weeks

convene a meeting of Participants to approve the appointment of a successor as nominated at the initiative of the Fund Manager only.

6 Management and Investments

- 6.1 The Fund Manager is charged with the management and administration of the Fund Estate and is, subject to these Terms and Conditions, entitled to invest the Fund Means, to dispose of or exchange any of the Fund Investments, to assume Fund Obligations and to perform any and all other acts in its own name on behalf and for the account of the Fund which are in the opinion of the Fund Manager reasonably necessary for, or conducive to, the attainment of the Investment Objectives. The Fund Manager may, from time to time, seek third party advice regarding overall asset allocation and investment management.
- 6.2 In managing the Fund Estate, the Fund Manager shall act solely in the interest of the Participants. In the performance of its obligations and in the exercise of its rights, powers and authorities hereunder, the Fund Manager shall exercise the standard of care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character, risk profile and investment objectives as the relevant Sub-Fund, having regard to the provisions hereof.
- 6.3 The Fund Manager may accordingly delegate all or any part of its powers and duties under these Terms and Conditions to one or more suitable third parties such as the Administrator.
- 6.4 The management and administration of the Fund Estate shall be performed for the account and at the risk of the Participants in the relevant Sub-Fund. Benefits and/or losses resulting therefrom shall consequently be for the benefit of or be borne by such Participants. No Participant shall be liable to contribute any sum to the Fund Estate beyond the Subscription Price for his Participations.
- 6.5 The Fund Manager may borrow for the account, and at the expense, of a Sub-Fund to finance Fund Assets, Fund Obligations and Costs. The sum outstanding at any time in relation to any Sub-Fund shall not exceed thirty per cent. (30%) of the book value of the Fund Assets. Subject to that, Fund Investments may not be financed with any funding (including but not limited to debt funding) other than Subscription proceeds.
- 6.6 Forthwith after each agreement to acquire or dispose of a Fund Investment the Fund Manager shall provide full details to the Custodian.
- 6.7 Any transaction undertaken by the Fund Manager in breach of the Terms and Conditions shall be cancelled and shall be for the account of the Fund Manager.
- 6.8 The Fund Manager shall not resign or withdraw from the Fund unless replaced by a successor with the sanction of an Ordinary Resolution (meeting of Participants to be held within 4 (four) weeks after the Fund Manager has announced its intention to resign).
- 6.9 The Fund Manager may be removed from office and a new Fund Manager may be appointed, by Special Resolution, in the event of fraud, illegal acts, gross negligence (*grove schuld*), wilful default (*opzet*) or a material breach (not remedied within one hundred and twenty (120) days of a Participant giving notice to the Fund Manager requiring it to do so) by the Fund Manager in carrying out its obligations under the Terms and Conditions.

- 6.10 Neither the Fund Manager nor the Administrator nor any of their respective directors, employees or affiliates shall be liable towards the Participants for a loss suffered by them in connection with the performance of its respective duties and responsibilities, unless and to the extent that such loss is directly caused by the gross negligence (*grove schuld*) or wilful default (*opzet*) of the Fund Manager. Neither the Fund Manager nor any of its respective directors, employees or affiliates shall be liable towards the Participants for a loss suffered by them as a result of any act or omission of a third party.
- 6.11 The Fund Manager and the Custodian, any administrative agent and their respective affiliates, officers, directors, shareholders, agents and employees shall be entitled to be indemnified out of the Fund Assets against any claims, liabilities, costs and expenses (including reasonable legal fees) incurred in relation to the performance of their duties in relation to the Fund provided however that no such person shall be so indemnified with respect of any matter resulting from its or his fraud, gross negligence (*grove schuld*) or wilful default (*opzet*) in the performance by it or him of its or his obligations and duties in relation to the Fund or material breach of the Terms and Conditions not remedied within sixty (60) days of receiving notice requiring such remedy.

7 Fund Means

- 7.1 The Fund Means of the Fund may be received by the Custodian in consideration for the subscription of Participations, in respect of or in exchange for Fund Investments, by creation and increase of Fund Obligations and/or by creation, increase and application of provisions and reserves, if any.
- 7.2 The Fund Means shall be held by the Custodian pending the selection and purchase of suitable investments and reinvestments by the Fund Manager, and to maintain liquidity to meet payment obligations which arise or may arise.
- 7.3 The Fund Means may be used to pay for all Fund Obligations and Costs relating to that Sub-Fund. Where an expense is incurred, or liability suffered, by the Fund which is not solely or directly attributable to any one Sub-Fund it shall be allocated between the Sub-Funds on such basis as the Fund Manager considers equitable.

8 Authority to Invest and Administer Fund Assets

- 8.1 Subject to the provisions set forth in the Terms and Conditions, the Fund Manager may invest the Fund Means of a Sub-Fund in any Fund Investments and the determination of the Fund Manager as to whether or not any investments are of a type which may be purchased or held by the Custodian in view of the Investment Objectives of that Sub-Fund shall be conclusive.
- 8.2 It is the intention that (subject only to the specific restrictions mentioned herein) the Fund Manager shall have the broadest power and authority in making investments consistent with the investment powers herein provided. The Fund Manager shall have full discretionary power to retain Fund Assets for as long a period as it shall think proper and to manage, convert, exchange, transfer and dispose of the Fund Assets. The Fund Manager shall have and may exercise every right and privilege pertaining to management provided that the exercise of such right or privilege is, in its opinion, conducive to the attainment of the Investment Objectives.

- 8.3 Without limiting the generality of the foregoing, the Fund Manager's powers and authority shall include:
 - 8.3.1 to enter into, perform and carry out contracts of any kind necessary or incidental to the matters set forth in this Article, including, without limitation, contracts with affiliates of the Fund Manager and/or with the Custodian;
 - 8.3.2 to bring, sue, prosecute, defend, settle or comprise actions at law related to the purposes of the Fund;
 - 8.3.3 to employ, retain or otherwise secure or enter into agreements or other undertakings with persons or firms in connection with the management and operation of the Fund's business, including, without limitation, auditors, attorneys, consultants, investment bankers, any other agents, all on such terms and for such consideration as the Fund Manager deems advisable;
 - 8.3.4 to enter into partnership and joint venture agreements and to take any and all actions incidental to investing in Investee Funds;
 - 8.3.5 to exercise the statutory and contractual voting rights attached to or concerning the Fund Investments; and
 - 8.3.6 to engage in any kind of lawful activity, and perform and carry out contracts of any kind, necessary or advisable in connection with the accomplishment of the purposes of the Fund.

9 Participants

- 9.1 Each Participant shall be beneficially entitled to the Fund Estate of a Sub-Fund pro rata to the number of its Participations in that Sub-Fund.
- 9.2 All benefits and (subject to Article 6.4) burdens, beneficially attached to the ownership of the Fund Estate, shall be in favour and for the account of each Participant pro rata to the number of its Participations in that Sub-Fund.
- 9.3 By signing an Application Form, each Participant shall be bound by and subject to the Terms and Conditions.

10 Participations

- 10.1 Participations shall be in registered form only. Certificates shall not be issued.
- 10.2 In the Register the names and addresses of all Participants will be recorded, stating the particulars of their Participations in each Sub-Fund including the Class, Series and the date of acquisition of the Participations. The Register shall also state the manner in which a Participant wishes to receive payments and any distributions.
- 10.3 The Fund Manager shall at all times be entitled to rely on the accuracy of the information provided by each Participant for inclusion in the Register and to treat such information as conclusive with respect to such Participant and its entitlement to its Participations. The Fund Manager shall not be bound:
 - 10.3.1 by any change in such information which has not been notified to the Fund Manager in accordance with Article 10.4; or
 - 10.3.2 to recognise any interest or claim of any person to a Participation other than the Participant whose details have been duly entered in the Register in respect thereof.
- 10.4 Each Participant shall notify the Fund Manager promptly of any change in the information referred to in Article 10.3 in relation to such Participant. The Fund

- Manager shall upon receipt cause the Register to be amended accordingly within five (5) Business Days.
- 10.5 Within ten (10) Business Days following entry (or any change in the entry relating to it) the Fund Manager shall send to each Participant an extract from the Register signed by the Fund Manager, in so far as it concerns its Participation(s). Such extract shall only serve as evidence of the entry and is non-negotiable.
- 10.6 Upon written request to that effect by the Participant to the Fund Manager, the Register shall be available at the Fund Manager's office for the inspection of each Participant on Business Days, but only in so far as it concerns the Participant's own entry.

11 Costs and Fees

- 11.1 Annual Management Fee
- 11.1.1 The Fund Manager shall be entitled to receive out of the Fund Assets an annual management fee equal to a half per cent. (0.5%) of the Net Asset Value of the Fund. The Fund Manager may determine that no management fee is due for certain Classes.
- 11.1.2 The annual management fee shall accrue on each Dealing Day by reference to the Net Asset Value on that day and be paid quarterly in arrears on, the last Business Day in each of March, June, September and December commencing in September 2006.
- 11.2 Subscription Charge
- The Fund Manager shall be entitled, to a Subscription Charge of up to two per cent. (2%) of the Subscription Price to be paid by the Participant in addition to the Subscription Price.
- 11.3 Incentive Fee
- 11.3.1 The Fund Manager shall be entitled to an annual incentive fee calculated per Series equal to 15% of the smaller of the following two amounts: (a) the amount by which the Total Return exceeds the Benchmark Return; or (b) the amount by which the Net Asset Value of a Series at the end of the financial year exceeds the highest of the Net Asset Value of the Series at any previous end of the year of such Series. The Fund Manager may at its own discretion determine a lower fee which may vary by Series.
- In calculating the Incentive Fee in an absolute amount:
- 1) an equitable adjustment shall be made for Participations subscribed and redeemed during the financial year; and
 - 2) any distributions paid to Participants during the financial year shall be added back.
- 11.3.2 The Incentive Fee shall be payable to the Fund Manager as to 90% of the estimated amount thereof one month after the end of the relevant financial year. The balance shall be payable within 14 days following completion of the audit of the accounts for the relevant financial year. On redemption of Participations during the year an amount equal to the Incentive Fee accrued to the date of Redemption in respect of such Participations shall be due to the Fund Manager.
- 11.4 Expenses to be borne by the Fund Manager
- The Fund Manager shall at its own expense provide office facilities and staff to facilitate the carrying on of the activities of the Fund.
- 11.5 Establishment Costs

The fees and expenses payable in connection with the formation of the Fund (including, but not limited to, fees and expenses of attorneys, tax advisers, auditors, consultants and other professional advisers and marketing, advertising, travel, out-of-pocket expenses and printing expenses of the Fund Manager) shall be borne by the Fund.

11.6 Other Operating Costs

All other operating expenses shall be borne by the Fund (and allocated between the Sub-Funds as the Fund Manager considers equitable) including (but not limited to):

- 11.6.1 management or advisory fees payable in respect of any Investee Fund, fees, brokerage expenses and duties associated with any investment proposals, or with the realisation of investments and other costs of acquisition and disposal of investments;
- 11.6.2 the fees and expenses of the Custodian and the Administrator;
- 11.6.3 the fees and expenses of such attorneys, agents, lawyers, auditors or other advisers as the Fund Manager may deem necessary or advisable in relation to the affairs of the Fund and the parties involved;
- 11.6.4 the cost of preparation of tax returns and establishing the tax status of the Fund;
- 11.6.5 the costs of meetings of Participants;
- 11.6.6 auditors' fees and expenses;
- 11.6.7 advertisement costs;
- 11.6.8 transfer and other taxes and duties (including any irrecoverable value added tax payable by the Fund Manager in respect of services provided to it in connection with the Fund);
- 11.6.9 interest;
- 11.6.10 bank charges;
- 11.6.11 fees and expenses in connection with pursuing or defending any complaint or litigation by or against the Fund; and
- 11.6.12 any other expenses reasonably incurred in connection with the operation of the Fund.

12 Net Asset Value and Value of the Participations

12.1 As of each Dealing Day, the Fund Manager shall determine the Net Asset Value taking the following into account:

- (a) the value of units, shares or other securities of any unit trust, mutual fund, investment company or other similar investment vehicle or collective investment scheme shall be derived from the most up to date prices available from the managers or their respective administrators thereof;
- (b) deposits shall be valued at their principal amount plus accrued interest calculated on a daily basis;
- (c) certificates of deposit shall be valued with reference to the best price bid for certificates of deposit of like maturity, amount and credit risk, for settlement as at the relevant Dealing Day;
- (d) treasury bills and bills of exchange shall be valued with reference to prices ruling in the appropriate markets for such instruments for settlement as at the relevant Dealing Day;
- (e) forward foreign exchange contracts will be valued by reference to the market value of similar contracts settled as at the relevant Dealing Day;

- (f) all valuations of financial futures contracts and purchased or sold options shall be assessed by reference to the prevailing prices on the relevant futures/options exchanges;
- (g) where any Security owned or contracted for by the Sub-Fund is listed or dealt in on a stock exchange recognised as such under the securities laws of the jurisdiction in which it is situated or any over-the-counter market, all calculations of the Net Asset Value which are required for the purpose of computing the price at which Shares are to be issued, shall be based on the latest trade price therefor as at the relevant Dealing Day. When such security is listed or dealt in on more than one stock exchange or over-the-counter market the Fund Manager may in its absolute discretion select any one of such stock exchanges or over-the-counter markets for the foregoing purposes;
- (h) in respect of any security the quotation of which has been temporarily suspended or in which there has been no recent trading, the value shall be taken to be a reasonable estimate of the amount which would be received by a seller by way of consideration for an immediate transfer or assignment from the seller at arm's length less any fiscal charges, commission and other sales charges which would be payable by the seller;
- (i) the value of any investment which is not quoted, listed or normally dealt in on a stock exchange or over-the-counter market shall be the value considered by the Fund Manager in good faith to be the value thereof;
- (j) all bills, notes and accounts payable;
- (k) all administrative and operating expenses, payable and/or accrued (the latter on a day-to-day basis);
- (l) all known liabilities, present and future, including the amount of any unpaid dividend, contractual obligations for the acquisition of investments or other property or for the payment of money and outstanding payments on any Participations previously redeemed;
- (m) an appropriate provision for taxes as determined from time to time by the Fund Manager;
- (n) all other liabilities of the Sub-Fund of whatsoever kind and nature except liabilities represented by Participations referable to the Sub-Fund and reserves (other than reserves authorised or approved by the Fund Manager); and
- (o) such allowance as the Fund Manager considers appropriate for contingent liabilities.

Notwithstanding the foregoing, the Fund Manager shall be entitled, at its discretion, to apply a method of valuing any investment different from that prescribed hereunder if such method would in its opinion better reflect the fair value of such investment and without prejudice to the generality of the foregoing, the Fund Manager may rely upon opinions and estimates of any persons who appear to it to be competent to value investment of any type or designation by reason of any appropriate professional qualification or experience of the relevant market. In determining the amount of liabilities the Fund Manager may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance and accrue the same in equal proportions over any such period.

Assets or liabilities not directly referable to a particular Sub-Fund shall be allocated between the Sub-Funds by the Fund Manager as it considers equitable. For the purposes of determining the Net Asset Value, any assets or liabilities in currencies other than Euros will be converted into Euros at the rate (whether official or otherwise) which the Fund Manager shall in its absolute discretion deem appropriate to the circumstances having regard, inter alia, to any premium or discount which it considers may be relevant and to the costs of exchange at the time of determination of the Net Asset Value.

In addition the foregoing the Fund Manager shall take all necessary differences into account to determine the Net Asset Value.

- 12.2 The Net Asset Value shall be expressed in Euros or, in the case of Sub-Funds valued in another currency, in such currency as may have been designated by the Fund Manager.
- 12.3 The reasonable and equitable decision of the Fund Manager regarding the Net Asset Value, including the determination whether a method of valuation fairly indicates fair market value, and the selection of experts for purposes of assessing the value of the Fund Assets and the Fund Obligations, shall be conclusive and binding upon all Participants.

13 Transfer or Encumbrance of Participations

- 13.1 No assignment, sale, transfer, or other disposition of a Participation (whether voluntary or involuntary) shall be valid or effective.
- 13.2 Participations cannot be made subject to any pledge, mortgage, usufruct, charge, lien, retention or other encumbrance (*beperkt recht*) of any nature whatsoever.

14 Redemption of Participations

- 14.1 Participants may only redeem Participations in accordance with the provisions of this Article.
- 14.2 The Fund Manager shall be entitled to redeem all (but not part of) the Participations of any Participant:
 - 14.2.1 if the Participant is dissolved, becomes insolvent, is unable to pay its debts, institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy, insolvency or similar law; or
 - 14.2.2 if in the Fund Manager's reasonable opinion the tax position of the Custodian, the Fund Estate or any of the other Participants is or will become negatively affected due to the tax status or position or any change therein of the relevant Participant or any other circumstance concerning such Participant.
- 14.3 Each Participant shall immediately notify the Fund Manager if any such status, position, change therein or any other circumstance occurs.
- 14.4 Participations may be redeemed following written notice given to the Fund Manager (unless otherwise agreed by the Fund Manager) setting forth the number of Participations. Redemptions will be effected in four equal instalments on four succeeding Dealing Days, the first Dealing Day being the first Dealing Day at least ninety (90) calendar days after receipt of the redemption request by the Fund Manager provided such first Dealing Day is at least 24 months after the date the Participations to be redeemed have been issued to the Participant. The Fund

- Manager may determine that for certain Classes, the aforementioned 24 month period is shorter or not applicable.
- 14.5 Redemptions shall be effected at a price equal to the Net Asset Value of the relevant Participations on the Dealing Day on which Redemption is effected, less a redemption charge. The redemption charge shall be used to satisfy any expenses relating to redemption and any balance shall accrue to the Fund Manager. The redemption charge shall be determined by the Fund Manager but will not exceed 1% of the redemption proceeds.
- 14.6 Any redemption request which would bring the value of a Participant's holding below the Minimum Holding will be treated as a request to redeem the entire holding, unless otherwise agreed by the Fund Manager.
- 14.7 The Fund Manager is not obliged to redeem more than 10% of the total Participations in a Sub-Fund in issue on any Dealing Day. Any excess requests will be carried forward to the next Dealing Day at which time they will be given priority over subsequent requests for redemption.
- 14.8 Unless otherwise agreed by the Fund Manager, the minimum value of Participations which may be the subject of one redemption request will be € 10,000.
- 14.9 An acknowledgement will be sent to the redeeming Participant within 12 Business Days of the Dealing Day upon which his redemption request takes effect. A confirmatory detailed confirmation will be despatched as soon as possible containing details of the Redemption Price (estimated to the extent necessary) and the total amount of proceeds (whether estimated or otherwise). A revised confirmation will be issued, if necessary, when the Redemption is confirmed.
- 14.10 The proceeds of redemption of Participations will, provided no unforeseen circumstances prevent the Fund Manager to liquidate the assets of the Fund in time, be despatched within 30 days following Redemption or, if later, receipt of correctly completed documentation.
- 14.11 Participations which are redeemed shall not be held by the Custodian but shall be automatically cancelled.
- 14.12 Immediately upon redemption the Fund Manager shall procure that the necessary amendments are made to the Register.
- 14.13 Participations may be redeemed against the transfer to the Participant concerned of an equitable proportion of the Fund Investments, with the Fund Manager making such adjustments as it thinks fit to deal with any restrictions on, or inconvenience arising from, particular transfers. Any such transfer and redemption may be subject to the transferee also assuming an equitable proportion of the Fund Obligations, with such adjustments as the Fund Manager thinks fit. Any such redemption shall require the prior consent of the Fund Manager which may be given (with or without the imposition of conditions) or withheld at the absolute discretion of the Fund Manager.

15 Suspension of Dealings

- 15.1 The Fund Manager may declare a suspension of valuations and the issue and redemption of Participations in any Sub-Fund for the whole or any part of a period during which:

- 15.1.1 by reason of the closure of or the suspension of trading on any stock exchange or over-the-counter market or any other reason, circumstances exist as a result of which, in the opinion of the Fund Manager, it is not reasonably practicable for the Fund to dispose of investments or fairly to determine the Net Asset Value; or
- 15.1.2 a breakdown occurs in any of the means normally employed by the Fund Manager in ascertaining the value of Investments or any other reason or circumstances exists which in the opinion of the Fund Manager means the value of the investments or other assets of the Fund cannot reasonably be ascertained; or
- 15.1.3 it is not possible to receive remittances in respect of the investments or to make payments pursuant to a redemption at all or without undue delay.
- 15.2 Any such suspension shall take effect at such time as the Fund Manager shall declare but not later than the close of business on the Business Day next following the declaration and thereafter there shall be no determination of Net Asset Value until the Fund Manager shall declare the suspension at an end except that the suspension shall terminate in any event on the first Business Day on which:
 - 15.2.1 the condition giving rise to the suspension shall have ceased to exist; and
 - 15.2.2 no other condition shall exist under which suspension is authorised under the Terms and Conditions.
- 15.3 Each such declaration by the Fund Manager shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the Fund as shall be in effect at the time. To the extent not inconsistent with such official rules and regulations, the determination of the Fund Manager shall be conclusive.

16 Notices

- 16.1 All notices to Participants shall be sent in writing to the (electronic) addresses of Participants stated in the Register. All notices to a Custodian or Fund Manager shall be sent in writing and shall be addressed or directed to the addresses set out in the Information Memorandum or such other address(es) as may have been notified to the Participants in writing.
- 16.2 The Information Memorandum sets forth the information the Fund Manager provides through its website;
- 16.3 The information regarding the Custodian and the Fund Manager which needs to be filed in the trade register of the Chamber of Commerce may be provided to any person at cost price. Upon request any person will be provided with a free copy of the Terms and Conditions.
- 16.4 The License and the Terms and Conditions may be inspected at the office of the Fund Manager. Participants may be provided at cost price with a copy of the License and a copy of the monthly report and notes including as per the end of the preceding month information about the Net Asset Value of each Sub-Fund and the Participations, an overview of the composition of the Fund Investments and the number of outstanding Participations.
- 16.5 The annual accounts of the Fund, the Custodian and the Fund Manager and the semiannual accounts of the Fund and the Fund Manager may be inspected at the offices of the Fund Manager. Any Participant will be provided with a free copy of aforementioned information upon request.

- 16.6 The Fund Manager will inform the Participants of a request to withdraw its License.

17 Disclosure of Interests

- 17.1 Interested Parties may buy, hold or deal in any investments upon their own account notwithstanding that the same or similar securities or other investments may be held by or on behalf of the Fund and an Interested Party shall not be liable to account either to the other Interested Parties or to the Fund, the Participants or any other person for any profits or benefits made or derived by or in connection with any such transaction.
- 17.2 An Interested Party may enter into any transaction with any Investee Fund and may be interested in any such contract or transaction (but only on an arm's length basis) and shall not be liable to account either to other Interested Parties or to the Fund, the Participants or any other person for any profits or benefits made or derived by or in connection with any such transaction.
- 17.3 Details of each transaction falling within Articles 17.1 and 17.2 entered into by any of the directors of the Fund Manager shall be provided to Participants in the annual accounts prepared in accordance with Article 19.2.

18 Linked Funds

- 18.1 The Fund Manager may manage or advise other collective investment schemes or investors for the purpose of investment in parallel with, and on substantially similar terms as, the Fund.
- 18.2 The Fund Manager shall, so far as consistent with applicable fiscal, legal and regulatory requirements, allocate investment opportunities in proportion to the funds respectively committed to the Fund and such Linked Funds and any such co-investment shall be made on the same financial terms as the acquisition by the Fund.
- 18.3 The Fund Manager may make arrangements with Linked Funds on such terms as it reasonably thinks fit to share income, costs, expenses and liabilities relating to such investments with the Linked Funds in proportion to the amounts respectively invested, to equate the rate of return earned from any investment and make such other arrangements as it thinks fit.

19 Accounting and Reporting

- 19.1 The financial year of the Fund shall coincide with the calendar year.
- 19.2 The Fund Manager shall prepare annual accounts, consisting of a balance sheet and an income statement for each Sub-Fund and explanatory notes thereto. The accounts of the Fund shall be signed by all members of the Board of Directors of the Fund Manager. Should one (1) or more signatures be missing, this shall be disclosed, stating reasons. The annual accounts shall be prepared in accordance with the Netherlands Civil Code.
- 19.3 The Fund Manager shall appoint an independent auditor, as referred to in Article 2:393(1) of the Netherlands Civil Code, to audit the annual accounts of the Fund and report on the Net Asset Value(s) as determined by the Fund Manager. Such person shall report on his audit to the Fund Manager, shall set out the results of

his audit in a certificate and shall be entitled to receive reasonable compensation for the services rendered.

- 19.4 The Fund Manager shall with the annual accounts cause the Administrator to send to each Participant a statement of the Investments acquired, sold or otherwise disposed of during such period and a report by the Fund Manager expressing its opinion on the value of the Investments held at the end of the financial year.
- 19.5 The Fund Manager shall prepare the annual accounts within 4 months following the end of each financial year of the Fund.
- 19.6 Annually within 9 weeks after the end of the first half of a financial year, the Fund Manager will prepare the semi annual accounts of the Fund. The semi annual accounts consist of a report of the Fund Manager as well as the semi-annual accounts. Article 19.2 shall apply mutatis mutandis to the semi annual accounts.
- 19.7 As soon as reasonably practicable following the last calendar day of each month, the Fund Manager shall send a statement to each Participant with information with respect to the Fund. This statement shall contain at least the following information in relation to the Fund:
 - 19.7.1 the Net Asset Value;
 - 19.7.2 the number of issued Participations;
 - 19.7.3 the amount of tax withheld from any distributions made by the Fund;
 - 19.7.4 details of the composition of the Fund Investments;
 - 19.7.5 a provisional Net Asset Value attributable to one Participation in each Series as of such Dealing Day;
 - 19.7.6 the definitive Net Asset Value attributable to one Participation in each Sub-Fund as of the Dealing Day in the previous month; and
 - 19.7.7 details of the performance of the Sub-Fund over the previous month, over the year to date and since the Commencement Date.
- 19.8 The Fund Manager shall as soon as reasonably practicable after each Dealing Day prepare a quarterly report containing the following information:
 - 19.8.1 details of the Net Asset Value attributable to one Participation in each Series as of such Dealing Day;
 - 19.8.2 details of the performance of each Series over the previous quarter, over the year to date and since the Commencement Date.

20 Distributions

- 20.1 The Fund Manager shall have sole discretion whether to distribute any income of the Fund or whether to retain it within the Fund. Any sums which it determines to distribute shall be paid to Participants in the relevant Sub-Fund, pro rata to their Participations.
- 20.2 Distributions in cash shall be made by credit to such bank account as the Participant may agree with the Fund Manager. Cash Equivalents and Securities shall be transferred into the name of the relevant Participant.
- 20.3 Any announcement of payment of distributions pursuant to this Article 20 shall be given to Participants in accordance with Article 16.

21 Tax Aspects

- 21.1 The Fund Manager shall use reasonable endeavours to assist Participants in obtaining the benefit of any tax exemptions applicable to investments by the Fund and any tax refunds available in respect of tax withheld from sums receivable by

the Fund. The Fund Manager shall not be obliged to seek any exemption or refund where the effort or expense would be disproportionate to the sums likely to be recovered. If the Fund Manager thinks fit, the amount distributable to any Participant may take into account the availability of tax exemptions or refunds attributable to him and to the rate of withholding applicable to him.

- 21.2 Each Participant shall promptly provide all information required for the purpose of Article 21.1 and do all such acts and things as the Fund Manager or the Custodian may reasonably require in connection therewith.
- 21.3 Each Participant shall indemnify the Fund and the other Participants for any taxes incurred or suffered by the Fund or any other Participant as a result of his failure to comply with Article 21.2, his tax residence or status or otherwise resulting from his participation in the Fund.

22 Amendments to the Terms and Conditions

- 22.1 The Terms and Conditions may be amended at the joint proposal of the Fund Manager and the Custodian without any further consent of the Participants being required provided the amendment does not involve: (i) a change in the Investment Objectives; (ii) an increase of the fees of the Fund Manager; (iii) or any negative change in the Terms and Conditions relating to the redemption of Participations which require the prior consent of the Participants through an Ordinary Resolution.
- 22.2 The Terms and Conditions cannot be amended at the request of the Participants.
- 22.3 Notice will be sent by the Fund Manager and the Custodian to all Participants to inform the Participants of the text of a proposed amendment of the Terms and Conditions at least thirty (30) calendar days before the day on which the amendment shall come into effect.
- 22.4 Any change in the Investment Objectives, or a change in the Terms and Conditions which causes a reduction in the Participants' rights or security or imposes costs upon Participants does not become effective until three (3) months after the date (of approval) of the change and during this period Participants shall be entitled to redeem their Participations under the then existing conditions. In particular, the provisions of Article 14 shall apply to any such redemption.
- 22.5 Upon amendment of the Terms and Conditions, the Fund Manager shall promptly send to the Participants the text of the revised Terms and Conditions.

23 Termination and Winding Up

- 23.1 The Fund shall be of indefinite duration.
- 23.2 The Fund shall be terminated on the bankruptcy, dissolution or liquidation of the Fund Manager unless the appointment of a replacement Fund Manager is approved by Ordinary Resolution.
- 23.3 The Fund or a Sub-Fund may be terminated at any time:
 - 23.3.1 with the sanction of a Special Resolution, upon the Fund Manager committing fraud, illegal acts, gross negligence (*grove schuld*), wilful default (*opzet*) or material breach of these Terms and Conditions which is not remedied within a reasonable period of time;
 - 23.3.2 with the agreement of the Fund Manager and the sanction of a Special Resolution; or

- 23.3.3 on not less than three month's notice by the Fund Manager to the Participants.
- 23.4 The Fund Manager may (with the consent of an Ordinary Resolution) by notice in writing to the Participants, terminate the Fund at any time if in its reasonable opinion it would be impracticable, unlawful or inadvisable to continue.
- 23.5 Upon termination of the Fund or a Sub-Fund in accordance with this Article, or dissolution, no further business shall be conducted for the Fund or that Sub-Fund (as the case may be), except for such actions as shall be necessary for the winding up of the affairs of the Fund or that Sub-Fund and the distribution of the assets of the Fund which shall be effected by the Fund Manager.
- 23.6 During the liquidation period the Terms and Conditions shall, to the extent possible, remain in full force and effect.
- 23.7 The balance left after the liquidation shall be distributed in accordance with Article 20. Notice that distributions are to be made payable to the Participants and the composition of the distributions or collections shall be given in accordance with the provisions of Article 16. The Fund Manager shall duly render accounts to the Participants before making any distributions.
- 23.8 The Fund Manager shall prepare liquidation accounts, which shall be accompanied by a certificate of the person referred to in Article 19.3. Approval of those liquidation accounts by a meeting of Participants shall, upon approval by Special Resolution, constitute a discharge of the Custodian and the Fund Manager.

24 Meetings of Participants

- 24.1 The Fund Manager may, as often as it deems necessary in the interest of the Participants, convene a meeting of Participants or of Participants in any Sub-Fund. The meetings will be held in Amsterdam or another place to be determined by the Fund Manager. Notice for a meeting will be given in accordance with Article 16 at least fourteen (14) days prior to the meeting and will state the date, time, place and agenda for the meeting.
- 24.2 Participants wishing to attend a meeting must notify the Fund Manager thereof in writing no later than five (5) Business Days prior to the meeting. Participants which have so notified the Fund Manager are entitled to be heard at the meeting and to exercise their voting rights.
- 24.3 The Fund Manager shall appoint a chairman and a secretary. The chairman shall be responsible for determining the procedure to be adopted for the conduct of any meeting. The secretary shall be responsible for the preparation of minutes of the meeting.
- 24.4 Each Participation gives an entitlement to one vote.

25 Applicable Law, Competent Court and Duration

The Terms and Conditions shall be governed by the laws of The Netherlands. The competent courts of Amsterdam and its appellate courts shall have exclusive jurisdiction to decide on a dispute between the parties arising from the Terms and Conditions.