

# Specific Terms – Depository Services for Luxembourg AIFs

## 1. Definitions

Unless specified otherwise in the Agreement, capitalized terms will have the following meaning:

Defined Term	Definition
<b>AIF</b>	alternative investment fund within the meaning of the AIFM Rules.
<b>AIFM</b>	the person appointed as alternative investment fund manager for the AIF Entities and who countersigns the Engagement Letter.
<b>AIFMD-CDR</b>	the Commission Delegated Regulation 231/2013 of 19 December 2012.
<b>AIFM Directive</b>	Directive 2011/61/EU of the European Parliament and the Council of 8 June 2011.
<b>AIFM Law</b>	the Luxembourg law of 12 July 2013.
<b>AIFM Rules</b>	the AIFM Directive, the AIFMD-CDR, the AIFM Law and any implementing measure of the AIFM Directive or the AIFM Law.
<b>Asset</b>	any asset of the Fund, including each Custodial Asset, Other Asset and Cash.
<b>Cash</b>	any cash belonging to the Fund that is held with a Credit Institution.
<b>Cash Monitoring Duties</b>	the monitoring duty of Gen II over Cash within the meaning of article 21.7 of the AIFM Directive and articles 85 and 86 of the AIFMD-CDR.
<b>Corporate Actions</b>	any voting right, call for redemption, grant or expiration of conversion or subscription rights, merger, offer, consolidation, reorganization and capitalization and any other corporate action affecting any Asset.
<b>Credit Institution</b>	<ol style="list-style-type: none"> <li>(1) a central bank;</li> <li>(2) an EU credit institution authorized under the EU Capital Requirements Directive; or</li> <li>(3) a bank authorized in a third country (or another entity of the same nature) in the relevant market where cash accounts are</li> </ol>

	<p>required, provided that such entity is subject to effective prudential regulation and supervision which has (a) the same effect as European Union law and (b) is effectively enforced in accordance with the principles set out in article 16 of Commission Directive 2006/73/EC of 10 August 2006.</p>
<p><b>Custodial Asset</b></p>	<p>each Asset which is a Financial Instrument that can be held in custody within the meaning of article 21.8(a) of the AIFM Directive and article 88 of the AIFMD-CDR, i.e. without prejudice to the following paragraphs, any Financial Instrument which belongs to the Fund and is:</p> <ol style="list-style-type: none"> <li>(1) a transferable security, money market instrument or UCI Unit, capable of being or held in an account directly or indirectly in the name of Gen II; or</li> <li>(2) able to be physically delivered to Gen II, but not a Financial Instrument that is: <ol style="list-style-type: none"> <li>(1) in accordance with Applicable Law, only directly registered in the name of the Fund with the issuer or an agent of the issuer, such as a registrar or a transfer agent;</li> <li>(2) provided as collateral by or for the account of the Fund to a third party under a title transfer arrangement;</li> <li>(3) provided as collateral by or for the account of the Fund to a third party under a security arrangement providing for a right of use in favor of the counterparty, but only to the extent the counterparty has effectively exercised its right of use; and</li> <li>(4) provided as collateral by a third party for the benefit of the Fund under a security arrangement that does not involve a title transfer.</li> </ol> </li> </ol> <p>To the extent permitted in accordance with Applicable Law, the Parties hereby agree that:</p> <ol style="list-style-type: none"> <li>(1) “in accordance with Applicable Law” in this definition will be interpreted as meaning that direct registration (in the name of the Fund with the issuer or an agent of the issuer) is not prohibited under the national law applicable to the</li> </ol>

	<p>issuer of the relevant Financial Instrument;</p> <p>(2) “only directly registered” in this definition means that:</p> <p>(A) ownership of the relevant Financial Instrument results from the registration of such Financial Instrument in the relevant register held by the issuer or the agent of the issuer in the name of the Fund;</p> <p>(B) Gen II has received confirmation (in a form acceptable to Gen II) from the Fund, the AIFM, the issuer or the agent of the issuer that the relevant Financial Instrument is recorded in the register held by the issuer or the agent of the issuer in the name of the Fund;</p> <p>(C) the Fund or the AIFM on behalf of the Fund is able to exercise its rights (including the right to transfer title) over the relevant Financial Instruments without the assistance of Gen II,</p> <p>without prejudice, subject to compliance with item (C) above, to the right of the Fund or the AIFM on behalf of the Fund to grant a power of attorney to Gen II to enable the latter to exercise certain rights or give instructions in relation to the relevant Financial Instruments.</p>
<b>Custodian</b>	any bank or other financial institution (other than a Securities Settlement System) appointed under a Custodian Agreement.
<b>Custodian Agreement</b>	an agreement between the Fund, Gen II, a Custodian and in the presence of the AIFM for the holding of Custodial Assets.
<b>Delegate</b>	any Custodian or any bank or other financial institution (other than a Securities Settlement System) appointed by a Custodian for the holding of Custodial Assets.
<b>Eligible Assets</b>	assets in which the Fund may invest in accordance with its Governing Documents.
<b>EPM Techniques</b>	efficient portfolio management techniques, including securities lending and repurchase and reverse repurchase transactions.

<b>ETD</b>	an exchange-traded derivative.
<b>Financial Instrument</b>	a financial instrument as specified in Annex I to Directive 2014/65/EU on markets in financial instruments, as amended.
<b>Fund</b>	any Entity that has appointed Gen II as depositary.
<b>Interests</b>	any shares, units, participation interests or any form of securities (including, without limitation, notes and certificates) as may be issued from time to time by the Fund.
<b>Loss</b>	a loss of a Custodial Asset.
<b>Operating Memorandum</b>	an operating memorandum, service level agreement or equivalent document setting out Gen II's operating procedures specific to, and approved by, the Fund and the AIFM applicable to the provision by Gen II of its depositary services in relation to the Fund and the AIFM.
<b>OTC Derivatives</b>	over-the-counter derivatives.
<b>Other Assets</b>	<p>all Assets that are not Custodial Assets or Cash, including listed and OTC financial derivative instruments, private equity and real estate assets, inter-company loans and other non-transferable debt instruments and UCI Units directly registered in the name of the Fund.</p> <p>All references to Other Assets owned by the Fund will be deemed to include references to Cash owned by the Fund or an SPV.</p>
<b>Other Assets Delegates</b>	a third party to whom Gen II may delegate all or part of its Ownership Verification Duty or Recordkeeping Duty over Other Assets.
<b>Oversight Duties</b>	the oversight duties of Gen II within the meaning of article 21.9 of the AIFM Directive and articles 87 and 93 to 97 of the AIFMD-CDR.
<b>Ownership Verification Duty</b>	<p>the title verification obligation of Gen II over Other Assets (other than Cash held with a Credit Institution under these Specific Terms), based on:</p> <ol style="list-style-type: none"> <li>(1) information or documents provided by the Fund or the AIFM; and</li> <li>(2) where external evidence is reasonably available, on such external evidence.</li> </ol>
<b>Recordkeeping Duty</b>	the maintenance of an up-to-date record of the Other Assets for which Gen II is satisfied are owned directly or indirectly by the Fund.

<b>Safekeeping Duties</b>	the safekeeping duties of Gen II vis-à-vis the Assets within the meaning of the AIFM Rules and, in particular, article 21.8 of the AIFM Directive and articles 89 and 90 of the AIFMD-CDR.
<b>Securities Settlement System</b>	any securities settlement system designated: <ul style="list-style-type: none"> <li>(1) in the EU for, and when providing the services specified by Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 (on settlement finality in payment and securities settlement systems); or</li> <li>(2) outside the EU, a non-EU securities settlement systems when providing similar services to those in (1).</li> </ul>
<b>SPV</b>	any financial or legal structure established by the Fund for the purposes of investing in Custodial Assets or in Other Assets and which are controlled directly or indirectly by the Fund.
<b>Transferable Securities</b>	transferable securities, including those that embed a derivative as referred to in the last subparagraph of article 51.3 of Directive 2009/65/EC and article 10 of Directive 2007/16/EC.
<b>UCI</b>	an undertaking for collective investment.
<b>UCI Units</b>	units or shares of a UCI.

## 2. Depositary duties and prohibited activities

### 2.1. Depositary duties

Gen II has, and will perform, the following duties for the Fund:

- (1) Duties over Cash (as described in Clause 3).
- (2) Duties over the Assets:
  - (A) Duties over Custodial Assets (as described in Clause 4); and
  - (B) Duties over Other Assets (as described in Clause 5).
- (3) Oversight Duties (as described in Clause 7).
- (4) Ancillary duties (as described in Clause 8).

### 2.2. Prohibited activities

Gen II will not:

- (1) undertake any portfolio management or risk management function, which will remain the sole responsibility of the AIFM and the AIFM's delegates; or
- (2) be responsible for providing an independent valuation of the Assets under article 19 of the AIFM Directive.

## 3. Duties over Cash

### 3.1. Cash accounts

Cash may be held in cash accounts opened in the name of the Fund with Credit Institutions, in any relevant currency of the Fund and its investments.

All movements of Cash on such cash accounts relating to investment activities of the Fund require the validation of Gen II.

Gen II will be notified before any cash account is opened in the name of the Fund.

### 3.2. Cash Monitoring Duties

In relation to Gen II's Cash Monitoring Duties, Gen II will ensure that the Fund's Cash flow is properly monitored, including:

- (1) ensure that payments made by or on behalf of Investors upon the subscription of Interests are effectively received;
- (2) ensure that Cash is held in cash accounts opened with a Credit Institution in the name of the Fund;
- (3) implement effective and proper procedures to reconcile Cash flow movement daily and/or on the day it occurs;
- (4) implement procedures to identify at the close of each Business Day significant Cash flow movement including those that could be inconsistent with the Fund's operations;
- (5) review periodically the adequacy of the procedures referred to under (3) and (4) above, including through:
  - (A) a full review of the reconciliation process at least once a year; and
  - (B) ensuring that the Cash accounts opened in the name of the Fund are included in the reconciliation process;
- (6) monitor, on an ongoing basis:
  - (A) the outcome of the reconciliation; and
  - (B) action taken as a result of any discrepancy identified by the reconciliation;
- (7) notify:
  - (A) the AIFM if any irregularity has not been promptly rectified; and
  - (B) the competent authorities if the situation cannot be clarified or corrected; and
- (8) check the consistency of its own record of Cash positions against those of the AIFM.

### 3.3. Ownership Verification Duty and Recordkeeping Duty

Gen II's Ownership Verification Duty and Recordkeeping Duty in relation to Other Assets described in these Specific Terms also apply to Cash.

Therefore, all references to Other Assets owned by the Fund will be deemed to include references to Cash owned by the Fund.

## 4. Duties over Custodial Assets

### 4.1. Principle

The Fund generally does not invest in Custodial Assets.

### 4.2. Requirement: delegation to a Custodian

In the event that the Fund intends to invest in Custodial Assets, it will inform Gen II sufficiently in advance to permit Gen II to appoint one or several Custodians under a Custodian Agreement. The Fund will abstain from such investment unless such Custodian(s) has(ve) been appointed by Gen II.

The Fund and the AIFM will execute any document and provide any information which Gen II or any Custodian or other Delegate may reasonably request to facilitate the opening and maintenance of any securities account with any Custodian or other Delegate.

### 4.3. Conditions for the appointment of a Custodian

The appointment of a Custodian is subject to the following conditions:

#### 4.3.1. Initial due diligence

Gen II will:

- (A) implement and apply an appropriately documented due diligence procedure for the selection and ongoing monitoring of the Custodian. That procedure will be reviewed at least annually, and made available upon request to the CSSF;
- (B) assess the regulatory and legal framework, including country risk, custody risk and the enforceability of the Custodian's contracts. That assessment will enable Gen II to determine the potential implication of an insolvency of the Custodian for the assets and rights of the Fund. If Gen II becomes aware that the segregation of assets is not sufficient to ensure protection from insolvency because of the law of the country where the Custodian is located, it will promptly notify the Fund and the AIFM;
- (C) assess whether the Custodian's practices, procedures and internal controls are adequate to ensure that Custodial Assets are subject to a high standard of care and protection;
- (D) assess, on the basis of reasonably available information, whether the Custodian's financial strength and reputation are consistent with the tasks delegated; and
- (E) ensure that the Custodian has the operational and technological capabilities to perform the delegated custody tasks with a satisfactory degree of protection and security.

## 4.3.2. Ongoing monitoring and review

Gen II monitors on an ongoing basis, and performs periodic review of, the Custodian and its arrangements in respect of the matters delegated to the Custodian.

To fulfil this obligation, Gen II will:

- (A) ensure that the Custodian has the structures and expertise that are adequate and proportionate to the nature and complexity of the Assets held by the Fund or the AIFM;
- (B) monitor the Custodian's performance and its compliance with Gen II's standards;
- (C) ensure that the Custodian exercises a high standard of care, prudence and diligence in the performance of its custody tasks and in particular that it effectively segregates the Custodial Assets in accordance with these Specific Terms; and
- (D) based on reasonably available information, review the custody risks associated with the decision to entrust the Custodial Assets to the Custodian and, promptly notify the Fund and AIFM of any change in those risks. During market turmoil or when a risk has been identified, the frequency and the scope of the review will be increased.

## 4.3.3. Obligations imposed on Custodian

Gen II exercises due care to ensure that the Custodian complies with the following:

- (A) other than in the circumstances referred to below, the Custodian is subject to (a) effective prudential regulation, including minimum capital requirements, and supervision in the relevant jurisdiction and (b) an external periodic audit to ensure that the Custodial Assets remain in its custody;
- (B) the Custodian does not make use of the Custodial Assets unless it has (a) obtained the prior consent of the Fund or the AIFM on behalf of the Fund and (b) given prior notification to Gen II;
- (C) the Custodian acts honestly, fairly, professionally, independently and in the interest of the Fund and its Investors; and
- (D) the Custodian does not carry out activities with regard to the Fund, or the AIFM on behalf of the Fund, that may create a conflict of interest between the Fund, the AIFM and the Custodian, unless (a) the Custodian has properly identified any such potential conflict of interest, (b) the Custodian has functionally and hierarchically segregated the performance of its depositary tasks from its other potentially conflicting tasks and (c) the potential conflict of interest is properly managed, monitored and disclosed to the Investors.

## 4.3.4. Protection against Custodian insolvency

Gen II exercises due care to ensure that the Custodial Assets are protected from any insolvency of the Custodian.

## 4.3.5. Contingency plans

Gen II devises contingency plans for each market in which it appoints a Custodian. Such a contingency plan will include the identification of an alternative provider, if any.



#### 4.3.6. Remedial measures

Gen II takes the measures it deems appropriate, including termination of the Custodian Agreement, if applicable requirements under the AIFM Rules are no longer complied with in the opinion of Gen II.

#### 4.4. Cases where conditions for the appointment of a Custodian cannot be satisfied

Notwithstanding Clause 4.3.3(1) above, where, in the opinion of Gen II, the law of a third country requires that certain Custodial Assets be held in custody by a local entity and no local entity satisfies the delegation requirements laid down in Clause 4.3.3(1) above, such local entity may only be appointed as Custodian to the extent required by the law of the third country and only for as long as there are no local entities that satisfy the delegation requirements under Clause 4.3.3(1) above and Gen II will only agree to do so subject to the following requirements:

- (1) the Investors are duly informed by or at the initiative of the Fund or the AIFM on behalf of the Fund that such delegation is required due to legal constraints in the law of the third country and of the circumstances justifying the delegation, prior to their investment; and
- (2) the Fund, or the AIFM on behalf of the Fund, instructs Gen II to delegate the custody of such Custodial Assets to such local entity.

#### 4.5. Sub-delegation by Custodian

If a Custodian sub-delegates any of the safekeeping functions which have been delegated to it by Gen II, Clauses 4.3.1 and 4.3.2 above will apply (with appropriate adaptations) and all references in such Clauses to Gen II and the Custodian will be deemed to be references, respectively, to the Custodian and to the Custodian's delegate (and, for the avoidance of doubt, such Custodian's delegate will be a Delegate for the purpose of this Agreement), respectively.

#### 4.6. Power of attorney granted to Gen II

The Fund and the AIFM hereby grant a general power of attorney to Gen II to:

- (1) terminate, on behalf of the Fund, at any time and without prior notice to the Fund or the AIFM, the relationship with any Custodian or other Delegate; and
- (2) instruct such Custodian or other Delegate to transfer as soon as reasonably practicable, all or part of the Custodial Assets including in particular cash accounts held with such Custodian or other Delegate to such other account as Gen II may instruct,

if Gen II reasonably considers that a Custodian or other Delegate is no longer in a position to properly discharge its Safekeeping Duties over the Custodial Assets and Other Assets.

#### 4.7. Sharing of information

Gen II will promptly provide, after request from the Fund or AIFM, information on the procedures implemented by Gen II to monitor the activities of Custodians and other Delegates.

#### 4.8. Safekeeping Duties

In relation to Custodial Assets, Gen II will (or, to the extent required under Applicable Law, will cause each Custodian to) ensure that:

- (1) Custodial Assets, which can be registered in a financial instrument account, are registered in accordance with these Specific Terms;
- (2) records and accounts are kept, in order to comply with the AIFM Rules, to enable Gen II (or, as applicable, the Custodian) at any time and without delay to distinguish Custodial Assets of the Fund from assets of any other client, and from its own assets;
- (3) records and accounts are accurately maintained and correspond to the Custodial Assets held by the Fund;
- (4) reconciliations are regularly conducted between Gen II's internal accounts and the records of Custodians and other Delegates;
- (5) a high level of investor protection in relation to Custodial Assets;
- (6) relevant custody risks throughout the custody chain are assessed and monitored, and the AIFM be informed of any material risk identified;
- (7) adequate organizational arrangements are introduced to minimize the risk of loss or diminution of client assets, or of rights in connection with those assets, as a result of misuse of the assets, fraud, poor administration, inadequate record-keeping or negligence;
- (8) the Fund's ownership right over the Custodial Assets is verified; and
- (9) steps are taken so that any Custodial Asset deposited with another Custodian is identifiable separately from the Financial Instruments belonging to Gen II (or, as applicable, the Custodian) and from Financial Instruments belonging to the relevant Custodian, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection.

## 4.9. Method of holding

Custodial Assets that (i) can be registered in a financial instrument account by way of book-entry and (ii) are Eligible Assets will be registered in book-entry form in one or more segregated securities account(s) with a Custodian or other Delegate.

Bearer securities will be deposited in the vault of a Custodian or other Delegate.

## 4.10. Loss

### 4.10.1. When is a Custodial Asset considered lost?

A Custodial Asset is deemed lost when (whether or not due to, or arising from, fraud, negligence or intentional behavior):

- (1) a stated right of ownership of the Fund is demonstrated not to be valid because it ceased to exist or never existed;
- (2) the Fund has been definitively deprived of its right of ownership over the Custodial Asset unless it is a Financial Instrument that is substituted or converted into another instrument or instruments; or
- (3) the Fund is definitively unable to directly or indirectly dispose of the Custodial Asset.

### 4.10.2. What happens in case of Loss?

In case Loss is ascertained as per Clause 4.10.1. above, the AIFM will:

- (1) in cooperation with Gen II, follow a written process (readily available to the competent authorities) to determine Loss and consult with, and take into account the views of, Gen II; and
- (2) promptly notify any determination of Loss to (a) Gen II and then (b) by or at the initiative of the Fund or of the AIFM, the Investors.

In the event of insolvency of the Delegate holding the relevant Custodial Asset, the AIFM will promptly determine Loss when any condition listed above is met with certainty. Certainty occurs at least at the end of the insolvency proceedings. The AIFM and Gen II will closely monitor the insolvency proceedings to determine whether any Custodial Asset entrusted to the relevant Delegate is effectively lost.

## 5. Duties over Other Assets

### 5.1. Presentation

The Fund may invest in any Other Asset that is an Eligible Asset.

The Fund and the AIFM on behalf of the Fund acknowledge that, due to Applicable Law, certain Financial Instruments purchased or otherwise acquired by the Fund may have to be held in an account opened in the Fund's name. The Fund and the AIFM on behalf of the Fund acknowledge and agree that these Assets cannot be assigned, transferred, exchanged or delivered without the prior consent of Gen II. In this regard, the Fund and the AIFM on behalf of the Fund agree to duly co-operate with Gen II to implement and agree the appropriate operating arrangements between each relevant person involved in order to enable Gen II to carry out its obligations.

### 5.2. Safekeeping Duties

Gen II's only Safekeeping Duties over Other Assets are to perform (i) the Ownership Verification Duty and (ii) the Recordkeeping Duty.

Gen II will perform its Ownership Verification Duty upon acquisition of each Other Asset by the Fund, and periodically thereafter, but at least annually.

### 5.3. Ownership Verification Duty for real estate assets

Gen II may undertake on-site due diligence for real estate assets, at the expense of the Fund, where it has not been provided with sufficient evidence allowing it to perform its Ownership Verification Duty, or deems it required for the protection of the interests of the Investors.

### 5.4. Recordkeeping Duty

To comply with its Recordkeeping Duty, Gen II will:

- (1) register in its record, in the name of the Fund, Other Assets, including their respective notional amounts, for which Gen II is satisfied that the Fund holds the ownership. Gen II will rely on the information provided to Gen II by the Fund and/or the AIFM and where Gen II deems it appropriate for the protection of the interests of the Investors, use reasonable efforts to obtain additional sufficient and reliable information for Gen II to be satisfied that the Fund directly or indirectly owns the Other Assets;

- (2) be able to provide on a regular basis a comprehensive and up-to-date inventory of the Fund's Other Assets, including their respective estimated notional amounts; and
- (3) ensure that there are procedures in place so that registered Other Assets cannot be assigned, transferred, exchanged or delivered without Gen II or its Delegate having been informed of such transactions and Gen II will have prompt access to documentary evidence of each transaction and position from the relevant third party. The AIFM will provide support to and co-operate with Gen II and, in particular, ensure that the relevant third party provides Gen II promptly with certificates or other documentary evidence when there is a sale or acquisition of Other Assets.

## 5.5. Delegation of Ownership Verification Duty and Recordkeeping Duty

Gen II may delegate any of its Ownership Verification Duty and Recordkeeping Duty over Other Assets to Other Assets Delegates, subject to these Specific Terms (and references to Delegates in these Specific Terms will be deemed to include references to Other Assets Delegates).

## 5.6. Oversight of the AIFM and the Fund

Gen II will check whether the AIFM implements appropriate procedures to:

- (1) verify that Other Assets are appropriately registered in the name of the Fund; and
- (2) check consistency between positions in the records of the AIFM and Gen II pursuant to these Specific Terms (as undertaken by the Fund and the AIFM in these Specific Terms).

## 6. Commons rules applicable to all Assets

### 6.1. No re-use

Gen II may not re-use any Asset without prior consent of the Fund or the AIFM on behalf of the Fund.

### 6.2. Look-through

Gen II's Safekeeping Duties over all Assets apply on a look-through basis to all Assets held through one or more SPVs.

The Fund and the AIFM will, on their own initiative, provide all information to and more generally cooperate with Gen II so as to permit Gen II to discharge its duties and obligations in case of a look-through.

If the Fund is a feeder fund or a fund holding participations in other UCIs, no look-through will be required at the level of the master fund or UCI if the latter has itself appointed a depositary who is in charge of the custody of such assets, and who provides ownership verification and record-keeping functions of its own assets.

## 7. Oversight Duties

### 7.1. Oversight Duties over subscription and redemption of Interests

- (1) Gen II will ensure that any sale, issue, re-purchase, redemption and cancellation of Interests is carried out in accordance with Luxembourg Applicable Law and the Governing Documents.
- (2) To that effect, Gen II will:
  - (A) ensure that the Fund, AIFM or a delegate of the Fund or AIFM has established, implements and applies an appropriate and consistent reconciliation procedure (as specifically undertaken by the Fund and the AIFM in these Specific Terms);
  - (B) regularly check the consistency between the total number of Interests in the Fund's accounts and the total number of outstanding Interests that appear in the Fund's register; and
  - (C) ensure and regularly check that the procedures (regarding any sale, issue, repurchase, redemption and cancellation of Interests) comply with Luxembourg Applicable Law and the Governing Documents, and verify that these procedures are effectively implemented.

### 7.2. Oversight Duties over valuation of Assets and Interests

Gen II will:

- (1) ensure that the value of the Interests is calculated in accordance with Luxembourg Applicable Law, the Governing Documents and procedures laid down in Article 17 of the AIFM Law and Articles 69 to 74 of the AIFMD-CDR;
- (2) verify on an ongoing basis that appropriate and consistent valuation procedures are established and applied by the Fund, the AIFM or an external valuer appointed by the Fund or the AIFM (as specifically undertaken by the Fund and the AIFM in these Specific Terms);
- (3) ensure that the valuation policies and procedures are effectively implemented and periodically reviewed by the Fund, the AIFM or the relevant external valuer; and
- (4) where an external valuer has been appointed, check that the external valuer's appointment is in accordance with Article 17 of the AIFM Law and the AIFMD-CDR.

### 7.3. Oversight Duties over carrying out the AIFM's instructions

Gen II will:

- (1) carry out the instructions of the AIFM, unless they conflict with Applicable Law or the Governing Documents;
- (2) implement appropriate procedures proportionate to the nature, scale and complexity of the Fund to verify that the Fund and AIFM comply with Applicable Law and the Governing Documents; and
- (3) monitor the Fund's compliance with investment restrictions and leverage limits in Applicable Law and the Governing Documents, and the Fund and/or the AIFM will provide Gen II with the procedures and controls of the investment restrictions and leverage limits set up by the entity in charge of the control of the investment restrictions of the Fund.

## 7.4. Oversight Duties over timely settlement of transactions

Gen II will:

- (1) ensure, and establish a procedure to detect, that consideration for any transaction involving an Asset, is remitted to the Fund within the usual time limits; and
- (2) promptly notify the AIFM when such remittance does not occur and, if the situation is not remedied, request the restitution of the Assets from the counterparty where possible. Where transactions do not take place on a regulated market, the usual time limits will be assessed with regard to the conditions attached to the transactions (OTC Derivatives or investments in real estate assets or in privately held companies).

## 7.5. Oversight Duties over the Fund's income distribution

Gen II will:

- (1) ensure that the Fund's income is applied in accordance with Applicable Law and the Governing Documents;
- (2) ensure that appropriate measures are taken where the Auditor has expressed reserves on the annual financial statements; and
- (3) check the completeness and accuracy of dividend payments, once they are declared by the Fund's management body, and, where relevant, of the carried interest.

To comply with its Oversight Duties related to the Fund's income distribution, Gen II will be promptly provided by the Fund and/or the AIFM with all information related to distributions, including:

- (A) minutes of all meetings of the Fund's management body;
- (B) minutes of all partners' meeting;
- (C) all notices to the partners;
- (D) comments of the Auditor on the annual financial statements (reserves if any); and
- (E) annual and semi-annual reports (if applicable).

Where Gen II considers that the income calculation has not been performed in compliance with Applicable Law or with the Governing Documents, it will notify the Fund and the AIFM, and ensure that prompt remedial action is taken in the interest of the Investors.

## 7.6. General rules

Upon entering into this Agreement, Gen II will assess the risks associated with the nature, scale and complexity of the Fund's strategy and the AIFM's organization in order to devise oversight procedures that are appropriate to the Fund and the assets in which it invests, and which are then implemented, applied, regularly reviewed (at least annually) and updated (if appropriate and reasonable).

In performing its Oversight Duties, Gen II will perform controls (including ex-post controls) and verifications of processes and procedures that are under the responsibility of the AIFM, the Fund or an appointed third party.

The frequency of the controls to be performed by Gen II under this Clause 7 will be consistent with the frequency of subscriptions and redemptions of Interests.

## 8. Ancillary duties

### 8.1. Transactions

Gen II will arrange for the settlement of any transaction relating to Custodial Assets that have been validly executed by or on behalf of the Fund in accordance with Proper Instructions, this Agreement and the Operating Memorandum.

Gen II is under no obligation to act on Proper Instructions to settle any transaction unless and until property has been received and payment has been made, as further provided in the Operating Memorandum.

### 8.2. Corporate Actions and additional duties

If Gen II receives the required information from the relevant Delegate, Gen II will use reasonable endeavors to notify the AIFM and the Fund, or will procure that the Delegate notifies the AIFM and the Fund, of all Corporate Actions relating to Assets.

Subject to Applicable Law, Gen II will not take any action in relation to Corporate Actions except in accordance with Proper Instructions and will not be responsible for the exercise of any conversion, subscription or voting rights, or for dealing with takeover or other offers relating to capital restructuring.

Unless instructed to the contrary, Gen II may destroy proxy and other voting forms received in respect of the Assets after their expiry date.

Notices relating to Corporate Actions sent to the Fund may have been obtained from sources that Gen II does not control and may have been translated or summarized. Gen II has no duty to verify the information contained in such notices or the accuracy of any translation or summary of such information and is therefore not responsible for its accuracy or completeness. Gen II will use reasonable endeavors to notify the Fund of any notice relating to Corporate Actions that has been received by Gen II.

Gen II is entitled to take any step and execute any documents which is within its powers to carry out Proper Instructions properly given to it as to Corporate Actions and the exercise of other rights attached to the ownership of the Assets.

## 9. Operating Memorandum

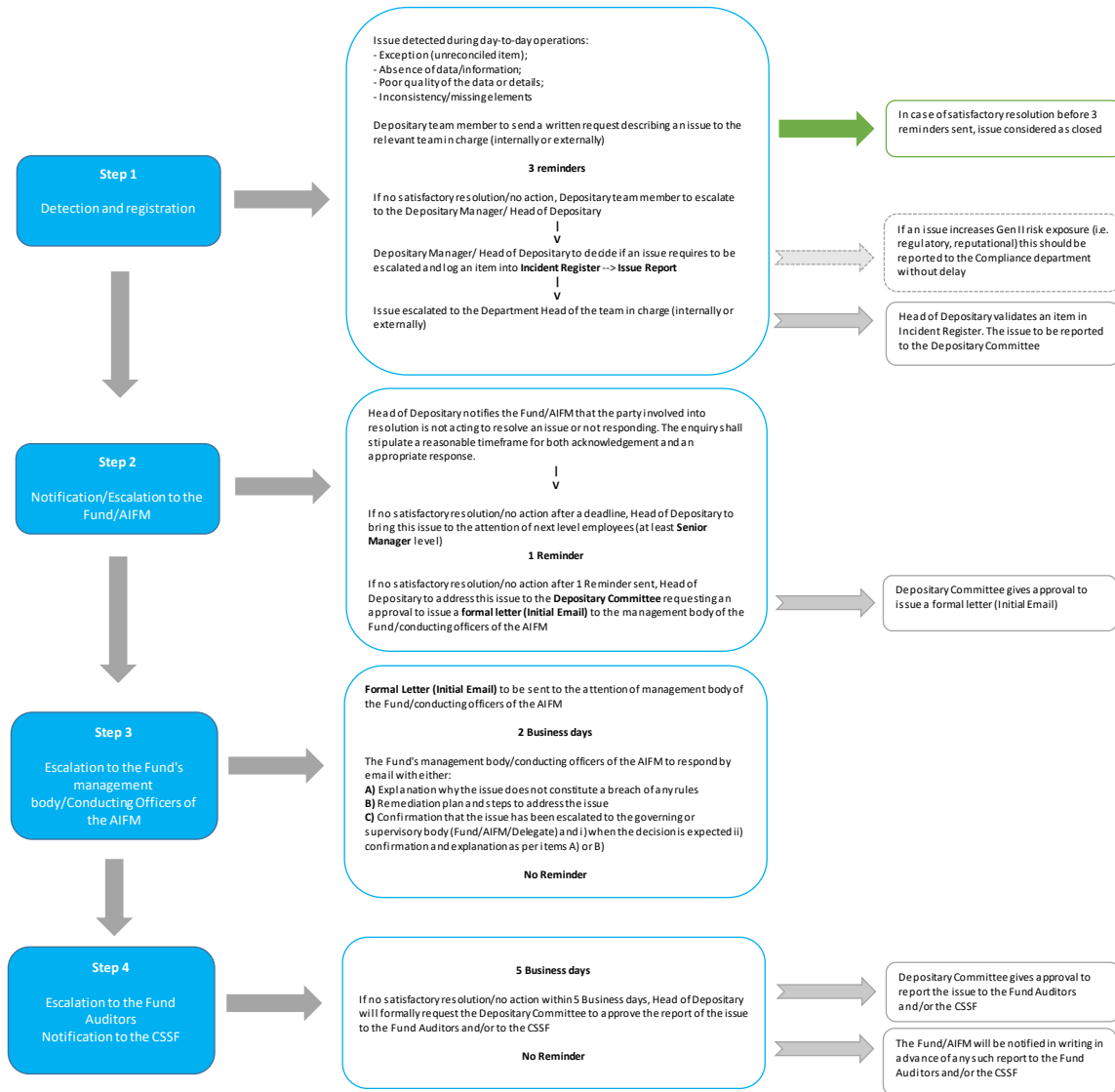
Gen II will provide each Service in accordance with the Operating Memorandum, which binds the Parties and forms part of this Agreement. In case of conflict between this Agreement and the Operating Memorandum, this Agreement will prevail.

If an issue relating to the performance of this Agreement is either not covered by the Operating Memorandum, or not properly addressed in the Operating Memorandum to enable Gen II to perform its duties pursuant to this Agreement, the Parties will negotiate in good faith and on an arm's length basis to set up specific terms of service that would specifically address such issue, in line with Gen II's operational constraints and limits.

The Parties may amend the Operating Memorandum in writing.

## 10. Escalation procedure

If Gen II detects a potential breach of any rule applicable to the Fund under Applicable Law, the Governing Documents, the Operating Memorandum or this Agreement, Gen II will follow the below escalation procedure:



Contact persons for Gen II, the Fund and the AIFM with their respective contact details are listed in the Operating Memorandum.

## 11. Review of the Performance by Gen II of its Contractual Obligations

Promptly on request from the Fund or the AIFM, Gen II will email them any information, confirmation or document that they reasonably require to review the performance by Gen II of its obligations under this Agreement.



## 12. Enquiry about the conduct of the Fund and of the AIFM

Gen II, in its capacity as depositary of the Fund, is entitled to enquire about the conduct of the Fund and of the AIFM and to assess the quality of the information provided to it, and the Fund and the AIFM will ensure that Gen II is able to have access to the books and visit premises of the AIFM, the Fund and any service provider appointed by the Fund or the AIFM.

## 13. Expense reimbursement

The Fund will pay or reimburse Gen II for:

- (1) any reasonable and documented out-of-pocket expense and cost relating to the performance by Gen II of its Safekeeping Duties; and
- (2) any transfer tax or any other tax or duty or governmental levy payable by Gen II on any transfer, exchange or delivery of Assets made under this Agreement.

## 14. Specific representations, warranties and undertakings of the Fund and the AIFM

### 14.1. Additional representations and warranties of the Fund

The Fund represents and warrants that it:

- (1) has no redemption right exercisable within five (5) years from the date of the initial investments provided, however, that Investors may effect transfers of their Interests in accordance with the Governing Documents;
- (2) in accordance with its core investment policy, generally:
  - (A) does not invest in Custodial Assets; or
  - (B) invests in any non-listed issuer or company;
- (3) understands that:
  - (A) it is not part of Gen II's service model to provide the safekeeping of Custodial Assets;
  - (B) Gen II cannot safeguard assets which constitute Financial Instruments.

### 14.2. Undertakings from the Fund and the AIFM in relation to the holding of Cash and the Cash Monitoring Duties

- (1) To enable Gen II to perform its Cash Monitoring Duties in accordance with these Specific Terms, the Fund and the AIFM for itself and on behalf of the Fund will:
  - (A) provide Gen II, or procure that Gen II be provided by any relevant third party (including the relevant Credit Institution), with a copy of each instruction, document or other relevant information relating to any cash account held with any Credit Institution and any other information relating to any such cash account as may reasonably be required by Gen II;

- (B) inform Gen II, or procure that Gen II be informed by any relevant third party, of each payment, made by or on behalf of Investors upon subscription of Interests, at the close of each Business Day when the Fund or an agent of the Fund receives such payment; and
  - (C) provide Gen II, promptly upon request from Gen II, with a copy of each record of the Cash position of the Fund held by the AIFM.
- (2) The Fund and the AIFM on behalf of the Fund represent that:
- (A) at the time of entry into this Agreement, they have, and during the Term will keep, Gen II informed of each cash account opened in the name of the Fund with any Credit Institution; and
  - (B) Cash will only be deposited, and the Fund will only open cash accounts in the name of the Fund, with Credit Institutions.

### 14.3. Undertakings from the Fund and the AIFM in relation to Custodial Assets

The Fund and the AIFM for itself and on behalf of the Fund will not:

- (1) enter into any transaction with a view to purchase, acquire or otherwise result in the ownership of Custodial Assets which are not Eligible Assets by the Fund; and
- (2) entrust the safekeeping of any Custodial Asset to any third party without the prior written consent of Gen II, which will be conditional upon such relevant third party being a Custodian or another Delegate.

### 14.4. Undertakings from the Fund and the AIFM in relation to Other Assets

- (1) The Fund and the AIFM for itself and on behalf of the Fund will:
- (A) provide and procure that each relevant third party (including SPVs) will provide, Gen II with all relevant information Gen II may reasonably request to assess whether the Fund owns Other Assets;
  - (B) promptly grant access, or procure that third parties holding the relevant information (including SPVs) promptly grant access, to Gen II to all relevant information Gen II needs to perform its Ownership Verification Duty and Recordkeeping Duty;
  - (C) have and implement appropriate procedures to:
    - (i) verify that Other Assets acquired by or for the account of the Fund are appropriately registered in the name of the Fund; and
    - (ii) check the consistency between the positions in the AIFM's records and the records held by Gen II pursuant to these Specific Terms;
  - (D) provide any information, documentation or confirmation as may be required by Gen II to ensure that the AIFM implements the appropriate procedures in accordance with Clause 14.4.(1)(C) above; and
  - (E) ensure that each instruction and relevant information related to Other Assets is sent to Gen II, so that Gen II is able to perform its own verification or reconciliation procedure.
- (2) For any investment in Other Assets, the Fund and the AIFM on behalf of the Fund will provide or procure that Gen II be provided with:

- (A) before the acquisition or disposal of Other Assets by the Fund, information and documentation about the proposed acquisition or disposal; and
- (B) after each acquisition or disposal of Other Assets by the Fund (and provide support to ensure the delivery of), original or copies of documents of title to or evidencing ownership over the Other Assets,

in each case including any information or documentation set out in the Operating Memorandum, and any additional information or documentation as may reasonably be required by Gen II to discharge its duties under this Agreement.

- (3) Subject to written notification to and consent from Gen II, the Fund, the AIFM or any of their delegates may:
  - (A) enter into, purchase or acquire (as applicable) OTC Derivatives, EPM Techniques, ETD transactions or other complex transactions or products for the account of the Fund; or
  - (B) provide collateral from the Fund to a counterparty or vice versa,provided that Gen II is enabled to set up the required processes to assume its legal and contractual obligations (including in particular in respect of Assets posted as collateral that are Custodial Assets).

## 14.5. Undertakings from the Fund and the AIFM in relation to the Oversight Duties

### 14.5.1. Subscription and redemption of Interests

The Fund and the AIFM for itself and on behalf of the Fund will:

- (1) provide, and procure that each relevant third party will provide, Gen II with information about any payment made by or on behalf of Investors upon subscription of Interests at the close of each Business Day when the AIFM, the Fund or a party acting on behalf of it such as a transfer agent, receives such payment or an order from the Investor.
- (2) ensure that Gen II receives all other relevant information it needs to make sure that any payment under (1) above is then booked in each relevant cash account opened in the name of the Fund in accordance with these Specific Terms.
- (3) establish, implement and apply, or procure that a delegate of the Fund or of the AIFM establishes, implements and applies, an appropriate and consistent procedure to:
  - (A) reconcile the subscription orders with the subscription proceeds, and the number of Interests issued with the subscription proceeds received by the Fund;
  - (B) reconcile the redemption orders with the redemptions paid, and the number of Interests cancelled with the redemptions paid by the Fund; and
  - (C) verify on a regular basis that the reconciliation procedure is appropriate.
- (4) provide, or procure that the relevant delegate of the Fund or of the AIFM provides, Gen II with any information or document as may be requested by Gen II to ensure that a reconciliation procedure is duly established, implemented and applied in accordance with Clause 14.5.1.(3) above.

## 14.5.2. Valuation of Assets and Interests

The Fund and the AIFM for itself and on behalf of the Fund will:

- (1) establish, implement and apply, or procure that an external valuer duly appointed by the Fund or the AIFM on behalf of the Fund establishes, implements and applies, an appropriate and consistent valuation procedure in accordance with article 17 of the AIFM Law, the AIFMD-CDR and the Governing Documents;
- (2) provide, or in case of an appointment of an external valuer, procure that the external valuer provides, Gen II with any information or document requested by Gen II to ensure that (i) a valuation procedure is duly established, implemented and applied in accordance with Clause 14.5.2.(1) above and (ii) in case of an appointment of an external valuer, such appointment is in accordance with article 17 of the AIFM Law and the AIFMD-CDR;

## 14.5.3. Carrying out of the AIFM's instructions

The Fund and the AIFM for itself and on behalf of the Fund will ensure that no investment will be made, and that no transaction will be entered into, by or on behalf of the Fund if such investment or transaction would result in a breach of any limit or restriction (including any investment restriction or leverage limit) applicable to the Fund under Applicable Law or the Governing Documents.

## 14.5.4. General rules

The Fund and the AIFM for itself and on behalf of the Fund will:

- (1) provide Gen II, or procure that Gen II be provided, with all information on reserves expressed in the Fund's financial statements.
- (2) ensure that all instructions related to the Assets and operations are sent to Gen II, so that Gen II is able to perform its own verification or reconciliation procedures.
- (3) provide, or procure that relevant third parties will provide, Gen II with any information, document or confirmation as may be requested by Gen II to assess the risks associated with the nature, scale and complexity of the Fund's strategy and the AIFM's organization.
- (4) enable Gen II to perform whatever checks (including ex-post controls) and verifications over procedures and processes which are implemented by or under the responsibility of the Fund or the AIFM as may be deemed necessary by Gen II to ensure compliance by the Fund, the AIFM and their delegates with all rules, restrictions and limits applicable to the Fund under Applicable Law or the Governing Documents.
- (5) provide Gen II, promptly after entering into this Agreement and on an ongoing basis, with all relevant information Gen II may reasonably request to comply with its duties hereunder and ensure that Gen II is able to have access to the books and visit premises of the Fund, the AIFM and any service provider appointed by the Fund or the AIFM, such as administrators or external valuers and, as the case may be, or to review any report or statement of recognized external certifications by any qualified independent auditor or other expert to ensure the adequacy and relevance of the procedures in place.
- (6) not make any material changes to:
  - (A) the Governing Documents;
  - (B) any services agreement to which the Fund or the AIFM on behalf of the Fund is a party;  
or

- (C) any procedure or policy relevant for the purpose of Gen II's duties hereunder (including any policy or procedure relating to the valuation of assets, the reconciliation of subscription and redemption orders, the monitoring of compliance with investment restrictions and leverage limits and the risk management),
- without reasonable prior notice to Gen II, and prior written consent from Gen II for provisions relevant to the performance by Gen II of this Agreement, such consent not to be unreasonably withheld or delayed.
- (7) not terminate the agreement with a service provider providing, or appoint a new service provider with a view to provide, investment management, investment advisory, execution, risk management, administration, valuation or distribution services to the Fund, (whether directly or indirectly) without the prior written consent of Gen II, such consent not to be unreasonably withheld or delayed.
- (8) promptly provide, subject to Applicable Law, Gen II with a copy of each communication (by way of letter or email):
- (A) sent by the CSSF to the Fund or the AIFM with respect to the Fund; and
- (B) from the Fund or the AIFM on behalf of the Fund to the CSSF,
- (9) provide a copy of any document or information as may be requested by Gen II from time to time.
- (10) promptly send to Gen II a copy of the annual audited financial statements of the Fund and of the AIFM when these documents become available.
- (11) not create any side-pockets without the prior written approval of Gen II, such consent not to be unreasonably withheld or delayed.

## 15. Responsibility of Gen II

### 15.1. Principle

The liability provisions contained in the General Terms and Conditions apply to Gen II when serving as depositary, without prejudice to the special liability of Gen II in case of a Loss under these Specific Terms, unless such provisions would infringe any mandatory requirement under Applicable Law (including the AIFM Rules).

### 15.2. Special liability with respect to Custodial Assets

Notwithstanding the foregoing, with respect to its Safekeeping Duty over Custodial Assets, Gen II will have the liability mandatorily prescribed by the AIFM Rules. Gen II is authorized to discharge such liability on the Custodians under the requirements provided for by the AIFM Rules (and in particular, article 21(13) or (14) of the AIFM Directive).

### 15.3. Vicarious liability

Gen II's liability will not be affected by:

- (1) the fact that it has entrusted all or some of the Assets which are the subject of this Agreement to an agent or agents.
- (2) any delegation of its Safekeeping Duties over Custodial Assets to Delegates.

## 15.4. Pre-existing defects

Provided that Gen II and its agents act in good faith and with the exercise of reasonable care in performance of such duties as would ordinarily be expected of a financial institution in the relevant market and subject to the terms of this Agreement, Gen II will not be liable for defects of title or entitlements to assets pre-existing at a time when such assets become subject to its custody or control.

## 15.5. Other exclusions

Gen II will not be liable:

- (1) in respect of any action taken or omitted to be taken under this Agreement in good faith and without gross negligence, fraud, bad faith or willful misconduct if, following a request by Gen II, the Fund has not given or procured that Gen II be given such information as Gen II may reasonably require in order to perform its obligations hereunder.
- (2) for the acts, omissions or insolvency of any Securities Settlement System.
- (3) for any loss arising from the bankruptcy, insolvency or equivalent proceeding of any agent which is not an Affiliate of Gen II, except to the extent such loss results from Gen II's failure to discharge its duties under Applicable Law with respect to the selection and monitoring of such agent.

## 16. Consequences of Termination

If Gen II's appointment as depositary is terminated pursuant to this Agreement:

- (1) the Fund or the AIFM on behalf of the Fund will, before maturity of the relevant termination notice period, notify Gen II of the name of a new depositary to whom the Assets will be transferred and who will replace Gen II as the Fund's depositary; and
- (2) subject to receiving all Fees, compensation, costs and expenses due to Gen II under this Agreement, Gen II will, promptly after receiving a termination notice and without additional costs:
  - (A) make each Asset available; and
  - (B) remit each record, book, document, ledger and account previously held in its depositary capacity,  
  
to the new depositary, or respectively to agents designated by the Fund or the AIFM on behalf of the Fund, to allow them to fulfil their obligations.

Promptly after providing the termination notice, the Fund and the AIFM will inform the Investors of such termination and the date on which Gen II will no longer act as depositary under this Agreement.