

A copy of this Placing Memorandum which comprises listing particulars for the purpose of listing the Shares of PXP Vietnam Fund Limited on The Irish Stock Exchange has been delivered to the Registrar of Companies in Ireland for registration in accordance with Regulation 13(1) of the European Communities (Stock Exchange) Regulations 1984.

An application has been made to The Irish Stock Exchange for all of the Shares of the PXP Vietnam Fund Limited issued pursuant to the Placing to be admitted to the Official List of The Irish Stock Exchange. It is expected that admission of the Shares will become effective on or about 15 January 2004. The Directors do not anticipate that an active secondary market will develop in the Shares. No application has been made for the Shares to be listed on any other stock exchange.

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The logo for PXP Vietnam Fund Limited features the letters 'PXP' in a large, bold, red serif font. A small yellow star is positioned between the 'P' and 'X'. To the right of 'PXP', the words 'VIETNAM FUND LIMITED' are written in a smaller, red, sans-serif font.

(an exempted company incorporated with limited liability under the laws of the Cayman Islands)

## **PLACING MEMORANDUM**

in relation to the proposed placing of up to 10,000,000 Shares of US\$0.05 each at a price of US\$2.50 per Share (plus a placing fee of up to US\$0.05 per Share) subject to an over subscription option to issue up to a further 2,000,000 Shares

**PLACING AGENT**

**PXP CAPITAL MARKETS LIMITED**

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No copy of this Placing Memorandum has been registered in any jurisdiction in connection with the placing of the Shares. This Placing Memorandum is distributed in connection with a private placing of the Shares, none of which will be issued to any person other than a person to whom a copy of this Placing Memorandum is provided by the Placing Agent.

This Placing Memorandum does not constitute, and may not be used for the purposes of an offer or solicitation to any person in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation. The distribution of this Placing Memorandum in certain jurisdictions may be restricted and accordingly persons into whose possession this Placing Memorandum comes are required to inform themselves about and to observe such restrictions. No action has been taken which would permit a public offering of the Shares in any jurisdiction where action for that purpose would be required.

No person receiving a copy of this Placing Memorandum in any territory may treat the same as constituting an invitation to him, unless in the relevant territory such an invitation could lawfully be made to him without compliance with any registration or other legal requirements.

The contents of this Placing Memorandum are not to be construed as a recommendation or advice to any prospective investor in relation to the subscription, purchase, holding or disposition of Shares and prospective investors should consult their professional advisers accordingly.

12 January 2004

The Directors, whose names appear on pages 20 to 21 below, accept responsibility for the information contained in this Placing Memorandum. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure that such is the case) the information contained in this Placing Memorandum is in accordance with the facts and does not omit anything likely to affect the import of such information.

No representations or warranties of any kind are intended or should be inferred with respect to the economic return or the tax consequences from an investment in the Company. No assurance can be given that existing laws will not be changed or interpreted adversely. Prospective investors are not to construe this document as legal or tax advice. Each investor should consult his own counsel and accountant for advice concerning the various legal, tax and economic considerations relating to his investment. Each prospective investor is responsible for the fees of his own counsel, accountants and other advisers. The Directors, the Company, the Investment Manager, the Placing Agent and other parties involved in this Placing do not accept any responsibility for any adverse tax liabilities which may accrue to holders of Shares as a result of this Placing.

Summary statements relating to the tax position of investors in jurisdictions in which it is intended to place the Shares are set out in Appendix I. These summary statements are based on advice received by the Company, but, as individual investors may be affected differently in different situations, these statements do not constitute advice to investors, are necessarily general in nature and are not definitive of any particular investor's tax position in relation to the Shares.

Neither the admission of the Shares to the Official List nor the approval of the Placing Memorandum pursuant to the listing requirements of The Irish Stock Exchange Limited shall constitute a warranty or representation by The Irish Stock Exchange Limited as to the competence of service providers to or any other party connected with the Company, the adequacy of the information contained in the Placing Memorandum, or the suitability of the Company for investment purposes.

This Placing Memorandum is being distributed by the Placing Agent to selected persons for their own use in connection with the subscription of Shares in the Company. This Placing Memorandum and the information contained in it may not be used other than by the person to whom it is addressed and for the purpose of considering an investment in Shares, and may not be reproduced in any form or transmitted to any other person.

No action has been taken to permit the distribution of this Placing Memorandum in any jurisdiction where action would be required for such purpose. This Placing Memorandum does not constitute, and may not be used for the purpose of, an offer or solicitation by anyone in any jurisdiction in which such an offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation.

Persons into whose possession this Placing Memorandum comes are required by the Company to inform themselves about and to observe any relevant restrictions. Intending investors should inform themselves: (a) as to the legal requirements within their own countries for the subscription of or purchase or holding of the Shares; (b) as to any foreign exchange restrictions which may be relevant to them personally; and (c) as to any tax consequence arising from the purchase, holding or disposition of the Shares which may be relevant to them.

A prospective investor should not subscribe for Shares unless satisfied that he and/or his investment representative have asked for and received all information which would enable him to evaluate the merits and risks of the proposed investment. There are significant risks associated with an investment in the Company. Investment in the Company is not suitable for all investors. The Company will only accept investments from Professional Investors who can accept the risks associated with such an investment including a substantial or complete loss of their investment. There can be no assurance that the Company will achieve its investment objective. Each prospective investor should carefully review this Placing Memorandum and carefully consider the risks before deciding to invest.

**The attention of investors is drawn to the "Risk Factors" set out on pages 29 to 32, below and to potential conflicts of interest described in the section entitled "Conflicts of Interests" on page 23 of this Placing Memorandum.**

The information contained herein has been prepared based on the relevant legislation and regulations of the Cayman Islands and on the relevant legislation and regulations of Vietnam and interpretations thereof which are believed to reflect accurately current interpretations by the relevant authorities. It should, however, be recognised that legislation and regulations, and their interpretation, vary within Vietnam and no attempt has

been made to review all relevant legislation and regulations applicable in all sectors and all parts of the country in which the Company may invest and, in view of the deficiencies in the legal system described under the section entitled “Risk Factors” on pages 29 to 32 below, no assurance can be given that the information contained in this Placing Memorandum with regard to the legislation and regulations of Vietnam and their interpretation by any relevant authority is complete or accurate.

The Directors particularly draw prospective investors’ attention to the following restrictions:

#### ***Cayman Islands***

The public in the Cayman Islands will not be invited to subscribe for the Shares and this Placing Memorandum does not constitute an offer to sell or issue the Shares to the public in the Cayman Islands.

#### ***France***

The private or public placing or sale in France of the Shares has not been authorised by the French Ministry of Economy and Finance under article 14 of Decree 89-624 of 6 September 1989 and the (direct or indirect) marketing in France of the Shares has not been authorised by the Commission des Opérations de Bourse under COB Regulation n° 89-02 as implemented by the COB Instruction dated 15 December 1998.

Accordingly, the Shares may not be placed, sold or offered in France nor may this Placing Memorandum or any offering document or material relating to the Shares be circulated or distributed, directly or indirectly to any person in France, unless such offering document or material have been requested by the investor himself without any prior active marketing of the Shares in France as defined by the Commission des Opérations de Bourse.

#### ***Hong Kong***

This Placing Memorandum relates to a private placement and does not constitute an offer to the public in Hong Kong to subscribe for Shares. No steps have been taken to register this Placing Memorandum as a prospectus in Hong Kong. Accordingly, the Shares may not be offered or sold by means of any document in Hong Kong other than to persons whose ordinary business is to buy or sell shares or debentures whether as principal or agent or in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Chapter 32 of the Laws of Hong Kong) or by the issue of any advertisement, invitation or document, whether in Hong Kong or elsewhere, which is or contains an invitation to the public to enter into or offer to enter into an agreement to acquire, dispose of, subscribe for or underwrite the Shares (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” within the meaning of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong).

The offer of the Shares is personal to the person to whom this Placing Memorandum has been delivered by or on behalf of the Company, and a subscription for Shares will only be accepted from such person (or a company which such person shall have certified to be its controlled subsidiary) for such minimum amount of Shares as described in this Placing Memorandum. This Placing Memorandum and the information contained in it may not be used other than by the person to whom it is addressed and may not be reproduced in any form or transmitted to any person in Hong Kong. It is a condition of the offer that each person who agrees to subscribe for Shares provides a written undertaking that it (or its principal) is acquiring such Shares for investment purposes only and not with a view to distributing or reselling such Shares and that it will not offer for sale, resell or otherwise distribute or agree to distribute such Shares within six (6) months from their date of issue to such person.

#### ***Ireland***

It is not the present intention of the Directors that the Shares will be marketed in Ireland, and no marketing of the Shares in Ireland may take place in the future without the prior consent of the Central Bank of Ireland.

### ***Singapore***

This Placing Memorandum has not been registered as a prospectus with the Monetary Authority of Singapore in Singapore and may not be circulated or distributed in Singapore nor may any of the Shares be offered for subscription or purchase, directly or indirectly, nor may any invitation to subscribe for or purchase any of the Shares be made in Singapore except in circumstances in which such offer or sale does not constitute an offer or sale of the Shares to the public in Singapore or in which such offer or sale is made pursuant to, and in accordance with the conditions of, an exemption invoked under Subdivision (4) Division I of Part XIII of the Singapore Securities and Futures Act 2001 and to persons to whom the Shares may be offered or sold under such exemption. Accordingly, the Shares may not be offered or sold, nor may this Placing Memorandum or any other offering document or material relating to the Shares be circulated or distributed, directly or indirectly, to the public or any member of the public in Singapore other than (i) to an institutional investor or other person specified in Section 274 of the Singapore Securities and Futures Act 2001, or (ii) to a sophisticated investor in accordance with the conditions specified in Section 275 of the Singapore Securities and Futures Act 2001 or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the Singapore Securities and Futures Act 2001. Section 276 of the Singapore Securities and Futures Act 2001 will have to be complied with upon the subsequent sale of Shares acquired pursuant to an exemption under Section 274 or Section 275 of the Singapore Securities and Futures Act 2001.

### ***Switzerland***

Neither the Company nor the Shares being offered hereby have been registered with the Swiss Federal Banking Commission under the Swiss Investment Fund Act of 1994 and the corresponding Swiss Investment Fund Ordinance.

### ***United Kingdom***

This Placing Memorandum is for distribution only to persons who (i) are outside the United Kingdom or (ii) have professional experience in matters relating to investments or (iii) are persons falling within Article 49(2)(a) to (d) (“high net worth companies, unincorporated associations etc”) of The Financial Services and Markets Act 2000 (Financial Promotion) Order 2001, as amended (each, a “relevant person”). This Placing Memorandum is directed only at relevant persons and must not be acted on or relied on by any person who is not a relevant person. Any investment or investment activity to which this Placing Memorandum relates is available only to relevant persons and will be engaged in only with relevant persons.

The Company has been advised that it may become a “collective investment scheme” as defined in the Financial Services and Markets Act 2000, as amended, if there is any redemption or repurchase of Shares by the Company, as set out in more detail in Appendix 1.

### ***United States of America***

The Shares have not been and will not be registered under the Securities Act of 1933 of the United States, as amended (“the 1933 Act”), or the securities laws of any of the States of the United States. The Shares may not be offered, sold or delivered directly or indirectly in the United States or to or for the account or benefit of any “U.S. Person” as defined in Regulation S under the 1933 Act (“Regulation S”) except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the 1933 Act and any applicable state laws.

The Company has not been and will not be registered under the United States Investment Company Act of 1940, as amended (“the 1940 Act”). Based on interpretations of the 1940 Act by the United States Securities and Exchange Commission (the “SEC”) relating to foreign investment companies, if, *inter alia*, the Company has more than 100 beneficial owners of its Shares who are U.S. Persons, or if the Shares are acquired by U.S. Persons who are not “qualified purchasers” (within the meaning of Section 2(a)(51)(A) of the 1940 Act, “Qualified Purchasers”) at the time of acquisition of such shares, the Company may become subject to certain requirements under the 1940 Act. To ensure that the Company does not become subject to such requirements, the Directors may require the compulsory redemption of Shares beneficially owned by U.S. Persons.

Notwithstanding the foregoing prohibitions, Shares may be offered in reliance on the exemption from the registration requirements provided by Section 4(2) of the 1933 Act to a limited number of investors in the

United States that qualify as "Accredited Investors" (within the meaning of Rule 501(a)(1),(2),(3) or (7) under the 1933 Act) that are also "qualified institutional buyers" (within the meaning of Rule 144A under the 1933 Act, "QIBs") and Qualified Purchasers. The Directors do not intend to permit Shares acquired by investors subject to the United States Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and by other benefit plan investors (as defined on pages 64 to 66 below) to equal or exceed 25 per cent of the value of the Shares (excluding Shares held by persons who have discretionary authority or control with respect to the assets of the Company, persons who provide investment advice for a fee, direct or indirect, with respect to such assets, and any affiliates of such persons).

The Investment Manager has not been nor will it be registered as an investment adviser under the United States Investment Advisers Act of 1940, as amended.

The Shares have not been approved or disapproved by the SEC or any state securities commission nor has the SEC or any state securities commission passed upon the accuracy or adequacy of this Placing Memorandum. Any representation to the contrary is a criminal offence.

No "benefit plan investor" (as defined on pages 64 to 66 below) will be entitled to purchase or hold or subscribe for Shares if that will result in 25 per cent or more of the Shares being held by benefit plan investors (excluding Shares held by persons who have discretionary authority or control with respect to the assets of the Company, persons who provide investment advice for a fee, direct or indirect, with respect to such assets, and any affiliates of such persons), in order to avoid the assets of the Company being treated as "plan assets" for the purposes of ERISA.

The Shares are being offered outside the United States pursuant to the exemption from registration under Regulation S under the 1933 Act. Purchasers and subscribers of Shares may be required to give certificates as to, among other things, their status as U.S. Persons or non-U.S. Persons and to give undertakings as to the persons and manner in which they may sell or transfer their interests.

A description of United States selling restrictions is set out in Appendix II.

#### **NOTICE TO NEW HAMPSHIRE RESIDENTS**

**NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED UNDER CHAPTER 421-B OF THE NEW HAMPSHIRE REVISED STATUTES WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE THAT ANY DOCUMENT FILED UNDER CHAPTER 421-B IS TRUE, COMPLETE AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL TO, ANY PERSON, SECURITY OR TRANSACTION. IT IS UNLAWFUL TO MAKE, OR CAUSE TO BE MADE, TO ANY PROSPECTIVE PURCHASER, CUSTOMER OR CLIENT, ANY REPRESENTATION INCONSISTENT WITH PROVISIONS OF THIS PARAGRAPH.**

#### **NOTICE TO PROSPECTIVE INVESTORS**

AMENDMENTS TO THE UNITED STATES INVESTMENT COMPANY ACT OF 1940 HAVE LOOSENED CERTAIN RESTRICTIONS CONTAINED IN SUCH ACT. THE BOARD OF DIRECTORS, IN ITS SOLE DISCRETION AND ACTING UPON THE ADVICE OF COUNSEL, MAY DETERMINE TO RELY ON SUCH AMENDMENTS (INCLUDING, WITHOUT LIMITATION THE EXEMPTION CREATED FOR OFFERS AND SALES OF SECURITIES OF INVESTMENT COMPANIES TO "QUALIFIED PURCHASERS" PURSUANT TO SECTION 3 (C) (7) OF SUCH ACT) TO RELAX, TO THE EXTENT LEGALLY PERMISSIBLE, CERTAIN RESTRICTIONS AND LIMITATIONS DESCRIBED IN THIS PLACING MEMORANDUM AND PROVIDED FOR IN THE COMPANY'S MEMORANDUM AND ARTICLES OF ASSOCIATION UPON THE ACQUISITION, HOLDING, TRANSFER AND DISPOSITION OF SHARES OF THE COMPANY BY 'US PERSONS', AS REFERRED TO IN THIS PLACING MEMORANDUM AND IN SUCH MEMORANDUM AND ARTICLES OF ASSOCIATION.

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# DIRECTORY

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## DIRECTORY

### DIRECTORS OF THE COMPANY

Philip Smiley	31 Sukhumvit Soi 53, Bangkok 10110, Thailand
Christopher Vale	16 Rosetti Gardens Mansions, Flood Street, London, SW3 5QY, UK
Dinh Thi Hoa	9/2 Ton Duc Thang, District 1, Ho Chi Minh City, Vietnam
Antony Jordan	50 Chester Row, London, SW1W 8JP, UK

The Company currently has a total of four Directors, all of whom are non-executive Directors. The manner in which the various Directors are appointed is more fully described in the section entitled “Constitution - Directors” on page 45 below of this Placing Memorandum.

### EXECUTIVE DIRECTORS OF THE INVESTMENT MANAGER

Kevin Snowball	120 Tran Quoc Thao, District 3, Ho Chi Minh City, Vietnam
Jonathon Waugh	34c Tran Khanh Du, District 1, Ho Chi Minh City, Vietnam

#### **The Company**

PXP Vietnam Fund Limited  
CARD Corporate Services Ltd.  
Fourth Floor, Zephyr House, Mary Street  
PO Box 709 GT, George Town  
Grand Cayman, Cayman Islands  
British West Indies

#### **Administrator**

Bank of Bermuda (Cayman) Limited  
3<sup>rd</sup> Floor  
36C Bermuda House  
Dr. Roy's Drive  
George Town  
Grand Cayman  
Cayman Islands

#### **Custodian**

Deutsche Bank A.G., Hong Kong Branch  
52/F Cheung Kong Center  
2 Queen's Road Central  
Hong Kong

#### **Investment Manager**

PXP Vietnam Asset Management Limited  
PO Box 957  
Offshore Incorporations Centre  
Road Town  
Tortola  
British Virgin Islands

#### **Administrator's Agent**

Bermuda Trust (Far East) Limited  
39<sup>th</sup> Floor, Edinburgh Tower  
The Landmark  
15 Queen's Road Central  
Hong Kong

#### **Placing Agent**

PXP Capital Markets Limited  
PO Box 957  
Offshore Incorporations Centre  
Road Town  
Tortola  
British Virgin Islands

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## DIRECTORY

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### **Vietnam Sub-Custodian**

Deutsche Bank A.G., Ho Chi Minh City Branch  
Saigon Centre  
65 Le Loi Boulevard  
District 1  
Ho Chi Minh City  
Vietnam.

### **Legal Adviser to the Company**

Freshfields Bruckhaus Deringer  
17 Ngo Quyen, Unit 1, 5/F  
Hanoi  
Vietnam

### **Dealing Enquiries**

PXP Capital Markets Limited  
PO Box 957  
Offshore Incorporations Centre  
Road Town  
Tortola  
British Virgin Islands

### **Auditors**

Ernst & Young Vietnam Limited  
Chartered Accountants  
Saigon Riverside Office Center  
2A - 4A Ton Duc Thang Street  
District 1  
Ho Chi Minh City, Vietnam

### **Legal Adviser to the Company on Cayman Islands Law**

Charles Adams, Ritchie & Duckworth  
Attorneys-at-Law  
PO Box 709GT  
Grand Cayman  
Cayman Islands  
British West Indies

### **Listing Sponsor and Paying Agent in Ireland**

NCB Stockbrokers Limited  
3 George's Dock  
International Financial Services Centre  
Dublin 1  
Ireland

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## DEFINITIONS

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### DEFINITIONS

The following definitions shall apply throughout this Placing Memorandum unless the context otherwise requires:

<i>Administrator</i>	Bank of Bermuda (Cayman) Limited
<i>Administrator's Agent</i>	Bermuda Trust (Far East) Limited
<i>Administration Agreement</i>	The agreement dated 11 July 2003 and made between the Company and the Administrator under which the Administrator agrees to provide administration and share registrar services to the Company
<i>Application Form</i>	The application form that will be provided by the Placing Agent to each placee, in substantially the form attached to the Placing Agreement
<i>Articles</i>	The Articles of Association of the Company
<i>Auditors</i>	Ernst & Young Vietnam Limited in its capacity as auditors of the Company, or such other auditors as shall be appointed from time to time by the Company
<i>Business Day</i>	A day (other than Saturday) on which banks in Hong Kong and Vietnam are open for normal banking business provided that where as a result of a Number 8 Typhoon Signal, Black Rainstorm Warning or other similar event, the period during which banks in Hong Kong are open on any day are reduced, such day shall not be a Business Day unless the Directors otherwise determine
<i>Closing Date</i>	31 December 2003 or such other date as the Company may determine
<i>Company</i>	PXP Vietnam Fund Limited, an investment holding company incorporated as an exempted company with limited liability under the laws of the Cayman Islands
<i>Custodian</i>	Deutsche Bank A.G.
<i>Custody Agreement</i>	The agreement dated 27 May 2003 between the Company and the Custodian under which the Custodian agrees to act as custodian of the Company's assets
<i>Deed of Waiver</i>	The Deed of Waiver dated 10 July 2003 pursuant to which the Investment Manager has irrevocably waived any and all rights and benefits attached to the one Share which it owns
<i>Directors or the Board</i>	The board of directors of the Company
<i>Dong</i>	Vietnamese Dong. The current exchange rate between US dollars and Dong is approximately US\$1: Dong 15,700
<i>FDI</i>	Foreign direct investment into Vietnam
<i>Government</i>	The government of Vietnam

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## DEFINITIONS

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<b><i>International Accounting Standards</i></b>	The accounting practices and standards approved as being in effect from time to time by the International Accounting Standards Board and interpretations issued by the International Financial Reporting Interpretation Committee
<b><i>Investee Company</i></b>	A Listed Company or a Pre-Listed Company in which the Company has invested
<b><i>Investment Manager</i></b>	PXP Vietnam Asset Management Limited, a company incorporated with limited liability under the laws of the British Virgin Islands, and wholly owned by Phan Xi Pang Asset Management Limited and acting as the investment manager pursuant to the Investment Management Agreement
<b><i>Investment Management Agreement</i></b>	The agreement dated 19 June 2003 between the Company and the Investment Manager, as amended on 17 December 2003, under which the Investment Manager agrees to manage the assets of the Company
<b><i>Issue</i></b>	The issue of Shares pursuant to the Placing as contemplated by this Placing Memorandum
<b><i>Listed Company</i></b>	A company which has shares listed on the Vietnam Stock Exchange
<b><i>Memorandum of Association</i></b>	The Memorandum of Association of the Company
<b><i>Net Asset Value</i></b>	The total assets of the Company less the total liabilities of the Company determined in accordance with the provisions of the Articles and as described in the section headed “Determination of Net Asset Values” on page 40 below
<b><i>Net Asset Value per Share</i></b>	The result obtained by dividing the Net Asset Value by the number of Shares issued and outstanding at the time of calculation
<b><i>1933 Act</i></b>	The Securities Act of 1933 of the United States, as amended
<b><i>Ordinary Resolution</i></b>	A resolution passed by a simple majority of the votes of such Shareholders as, being entitled so to do, vote in person or, in the case of corporations, by their duly authorised representatives or, where proxies are allowed, by proxy at a general meeting
<b><i>Placing</i></b>	The placing of up to 10,000,000 Shares, subject to an increase to 12,000,000 Shares to cater for over-subscriptions, if any, subject to the terms and conditions described in this Placing Memorandum, the Placing Agreement and the Placing Letter (for further details see “Placing Procedures” on page 27)
<b><i>Placing Agent</i></b>	PXP Capital Markets Limited, a company incorporated with limited liability under the laws of the British Virgin Islands, and acting as the placing agent pursuant to the Placing Agreement, and such term includes any sub-placing agents as are authorised under the Placing Agreement
<b><i>Placing Agreement</i></b>	The agreement dated 8 July 2003 between the Company and the Placing Agent relating to the placing of the Shares, as amended on 17 December 2003
<b><i>Placing Letter</i></b>	The letter, issued by the Placing Agent, pursuant to which the

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## DEFINITIONS

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Shares will be placed, a form of which is attached as a schedule to the Placing Agreement

***Pre-Listing Company***

A company in Vietnam which (i) has passed a board of directors resolution to seek a listing on the Vietnam Stock Exchange, and (ii) in the opinion of the Investment Manager has a reasonable expectation of being able to list on the Vietnam Stock Exchange within about six months from the date the Company makes an investment in such company

***Professional Investor***

An investor, including a transferee of Shares, who warrants at the time of making the investment both (A) (i) that his ordinary business or professional activity includes the buying or selling of investments, whether as principal or agent; or (ii) that he individually (or jointly with his spouse) has a net worth in excess of \$1,000,000; or (iii) that it is an institution with a minimum amount of assets under discretionary management of \$5,000,000, and (B) (a) that he has the knowledge, expertise and experience in financial matters to evaluate the risks of investing in the Company and to make an informed decision with respect thereto; (b) that he is aware of the risks inherent in investing in the Shares and the method by which the assets of the Company are held and/or traded; and (c) that he can bear the risk of loss of his entire investment

***Related Party***

means:

- (i) a substantial shareholder;
- (ii) any person who is (or was within the 12 months preceding the date of the transaction) a Director or shadow director of the Company or of any other company which is (and, if he has ceased to be such, was while he was a director or shadow director of such other company) its subsidiary undertaking or parent undertaking or a fellow subsidiary undertaking of its parent undertaking; or
- (iii) an associate of a related party within (i) or (ii) above

***Secretarial Services Agreement***

The Registered Office and Secretarial Services Agreement dated 11 July 2003 between the Company and the Secretary under which the Secretary agrees to provide the registered office for and to act as secretary of the Company

***Secretary***

CARD Corporate Services Ltd.

***Shares***

The ordinary shares to be offered or issued pursuant to this Placing Memorandum, whose rights and restrictions are explained in the section entitled "Information relating to the Shares" on page 39 below and in the Articles

***Shareholder(s)***

Registered holder(s) of Shares

***SOE***

A state-owned enterprise in Vietnam

***Special Resolution***

has the meaning set out in the Companies Law of the Cayman Islands; and for the Company's purposes the requisite majority shall be not less than three-fourths of such Shareholders as, being entitled so to do, vote in person or, in the case of corporations, by their duly authorised representatives or, where proxies are allowed, by proxy at a general meeting

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## DEFINITIONS

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<b><i>SSC</i></b>	The State Securities Commission, the official body in charge of regulating the Vietnam Stock Exchange
<b><i>US\$ or US dollars</i></b>	United States dollars
<b><i>United States</i></b>	has the meaning as defined in Regulation S under the 1933 Act
<b><i>U.S. Person</i></b>	<p>A U.S. Person, as defined by Rule 902 of Regulation S under the 1933 Act. Without limiting such definition, U.S. Person generally includes the following:</p> <ul style="list-style-type: none"><li>(a) any natural person resident in the United States;</li><li>(b) any partnership or corporation organised or incorporated under the laws of the United States;</li><li>(c) any estate of which any executor or administrator is a U.S. Person;</li><li>(d) any trust of which any trustee is a U.S. Person;</li><li>(e) any agency or branch of a non-U.S. entity located in the United States;</li><li>(f) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person;</li><li>(g) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organised, incorporated or (if an individual) resident in the United States; and</li><li>(h) any partnership or corporation if:<ul style="list-style-type: none"><li>(i) organised or incorporated under the laws of any non-U.S. jurisdiction; and</li><li>(ii) formed by a U.S. Person principally for the purpose of investing in securities not registered under the 1933 Act, unless it is organised or incorporated, and owned, by accredited investors (as defined in Rule 501(a) of Regulation D under the 1933 Act) who are not natural persons, estates or trusts</li></ul></li></ul>
<b><i>Valuation Day</i></b>	The last Business Day in each month, unless the Directors resolve otherwise, and such other days as the Company may determine, each being a day on which the Net Asset Value is calculated
<b><i>Vietnam Sub-Custodian</i></b>	Deutsche Bank, A.G., Ho Chi Minh City Branch
<b><i>Vietnam Stock Exchange</i></b>	The officially sanctioned mechanism for trading in listed equities, bonds and other securities, originally opened in July 2000, and known as the Securities Trading Centre, located in Ho Chi Minh City, together with any other officially sanctioned trading centres that may open in other cities in Vietnam

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## DEFINITIONS

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*VND*

Vietnamese Dong

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## KEY FUND INFORMATION

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### KEY FUND INFORMATION

The following summary is qualified in its entirety by reference to the more detailed information included elsewhere in this Placing Memorandum:

**The Company and the Offering** The Company is a newly organised, closed-end investment company. The Company is the first closed-end fund whose shares will be listed on The Irish Stock Exchange that has been formed for the purpose of investing primarily in the shares of companies which either are listed on the Vietnam Stock Exchange or are Pre-Listing Companies. The Company has an authorised share capital of US\$600,000, consisting of 12,000,000 Shares of par value US\$0.05 each. The Company is offering the Shares at an offering price of US\$2.50 per Share, plus a placing fee of up to US\$0.05 per share, which the Placing Agent is entitled to retain. The Offering is subject to a minimum of 2,000,000 Shares and a maximum of 10,000,000 Shares being subscribed, subject to an increase to 12,000,000 Shares to cater for over-subscriptions, if any. See “Placing Procedures” at page 27.

**Investment Objective, Policies and Restrictions** The investment objective of the Company is to seek long-term capital appreciation of its assets by investing in a portfolio of the equity securities of Vietnamese companies, whether established with domestic or foreign ownership, which are either Listed Companies or Pre-Listing Companies. The Company will invest (i) in the equity securities of Listed Companies which either have a capitalisation or net asset value which is in excess of US\$5 million at the time of investment, or which would have a market capitalisation in excess of US\$ 5 million if they were valued at the average price to earnings ratio of companies listed on the Vietnam Stock Exchange at the time of investment, and (ii) in Pre-Listing Companies if the Investment Manager believes, by reference to the average price to earnings ratio of companies then listed on the Vietnam Stock Exchange, that the capitalisation of the particular Pre-Listing Company under consideration for investment is likely to exceed US\$5 million when it is listed. The Company may make investments in Pre-Listing Companies through single purpose offshore holding companies, which will be companies established by the Company outside Vietnam for the purpose of easing the formalities that may otherwise apply to the Company when it disposes of direct investments in a Pre-Listing Company. The Company intends to invest across a range of industries. It is the Company’s current intention to invest no more than 40 per cent of its assets at the time of investment in any one sector. The Company intends to restrict its investment in Pre-Listing Companies to no more than 30 per cent of its assets at the time of investment. The Company will not invest more than 10 per cent of its assets at the time of investment in the shares of a single Investee Company. See “The Fund – Investment Objective - Investment Policies – Investment Restrictions” at page 18.

**Investment Manager** The Company will be managed by the Investment Manager. The Investment Manager is 100 per cent owned by Phan Xi Pang Asset Management Limited, the holding company of the directors of the Investment Manager. The directors of the Investment Manager have significant experience of South East Asian markets, including Vietnam. See “Investment Manager” at page 22.

**Investment Management Fees** The Investment Manager will receive from the Company a monthly management fee in an amount equal to one-twelfth of two per cent of the Net Asset Value of the Company. The Investment Manager will not receive an incentive fee or performance fee. See “Fees and Expenses” at page 25.

**Custodian** The Custodian of the Company’s assets will be Deutsche Bank A.G. Its Ho Chi Minh City Branch will act as the sub-custodian with respect to Vietnamese assets. See “Custodian” at page 23.

**Administrator and Secretarial Services** The Company’s administrator will be Bank of Bermuda (Cayman) Limited. The Administrator will provide certain administrative and registrar services to the Company. See “Administrator” at page 22. Company secretarial services will be provided by CARD Corporate Services Ltd. See “Secretarial Services” at page 23.

**Limited Duration** The Company has been established for an unlimited duration. However, the Articles require the Company to put before its Annual General Meeting in 2008 a Special Resolution to wind up the Company effective 30 September 2008. If the Shareholders do not decide, by Special Resolution, to wind up the Company effective 30 September 2008, the Company will continue to operate until 30 September 2010.

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## KEY FUND INFORMATION

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**Dividend Policy** The Company's income from investments will be applied first to pay the fees and other expenses of the Company. See "Fees and Expenses" at page 25. The Company expects that its net income (excluding capital gains), if any, after paying such fees and expenses, will be distributed to Shareholders annually, subject to retention of sufficient funds to meet anticipated fees and other expenses, and subject to the ability to convert Dong income into foreign currency for purposes of paying such dividends. See "Risk Factors – currency conversion and capital controls" at page 32. Under certain circumstances, the Company may also distribute net realised capital gains. See "Income Distributions" at page 41 and "Capital Distributions" at page 41.

**Closing** Subscriptions must be received by the Placing Agent before 5.00 p.m. on the Closing Date.

**Minimum Subscription** The minimum investment is US\$100,000 (net of any placement fees and bank charges).

**Listing** The Company has applied to list the Shares on The Irish Stock Exchange. It is anticipated that the Shares will be admitted to the Official List of The Irish Stock Exchange, and that dealings will commence on or about 12 January 2004.

**Settlement** The Shares will be issued in registered form and ownership and transfer of Shares will be recorded in the share register maintained by the Administrator.

**Available Information** The Company's fiscal year ends on 30 September of each year. The Company will send to The Irish Stock Exchange and to each of its registered Shareholders (i) on or before 31 March of each year, an annual report including audited financial statements for the preceding fiscal year, and (ii) on or before 31 July of each year, a semi-annual report including unaudited financial statements for the semi-annual period up to the last Valuation Day in the preceding March. The Company's first annual report will be made with respect to the fiscal year ending 30 September 2004 and the first semi-annual report will be made with respect to the half year period ending on the last Valuation Day in March 2004. The Company's Net Asset Value will be calculated as at each Valuation Day and will be reported to The Irish Stock Exchange.

**Risk Factors** Investment in Vietnam involves a high degree of risk. The Company's investment activities will entail certain risks and special considerations not typically associated with investments in other more established economies or securities markets, including, but not limited to: greater Government control over the economy, extensive Government control over foreign investment and divestment, legal uncertainties and currency controls and fluctuations. **An investment in the Company should be considered highly speculative. See "Risk Factors" at page 29.**

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# THE FUND

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## THE FUND

### INTRODUCTION

The Company was incorporated in the Cayman Islands on 7 May 2003 under the Companies Law, Cap. 22 (Revised), of the Cayman Islands as an exempted company with limited liability. A detailed description of the Company's capital structure and some of the principal provisions of the Company's Memorandum and Articles of Association are set out in the section below entitled "Information Relating to the Shares" at page 39 below and in the section below entitled "Supplementary Information about the Company" at page 43.

Since the date of incorporation the Company has not commenced business, no accounts have been made up and no dividends have been declared.

The Company's portfolio will be managed by the Investment Manager, subject to the overall policies, control, direction, review, instructions and supervision of the Board.

### INVESTMENT OBJECTIVE

The investment objective of the Company is to seek long-term capital appreciation of its assets by investing in a portfolio of the equity securities of Vietnamese companies, whether established with domestic or foreign ownership, which are either Listed Companies or Pre-Listing Companies.

### INVESTMENT POLICIES

The Company will invest in the equity securities of Listed Companies which either have a capitalisation or net asset value in excess of US\$5 million at the time of investment or which would have a market capitalisation in excess of US\$ 5 million if they were valued at the average price to earnings ratio of companies listed on the Vietnam Stock Exchange at the time of investment. Selection criteria will focus on the identification of undervalued companies with strong prospects for future growth.

The Company may also invest in the equity securities of Pre-Listing Companies if the Investment Manager believes, by reference to the average price to earnings ratio of companies then listed on the Vietnam Stock Exchange, that the capitalisation of the particular Pre-Listing Company under consideration for investment is likely to exceed US\$5 million when it is listed. As Vietnam is still a developing country, the Company's investments in Pre-Listing Companies in Vietnam may require extensive due diligence. As the Company would be a minority shareholder in any Pre-Listing Companies in which it invests, the Company would endeavour to obtain suitable shareholder protection by way of a shareholders' agreement and/or board representation, where available. However, the Company may not succeed in obtaining such protection.

The Company intends to restrict its investments in Pre-Listing Companies to no more than 30 per cent of its assets at the time of investment. Once a Pre-Listing Company receives listing approval from the SSC, it will cease to be included in the Pre-Listing Company category.

The Company intends to invest across a range of industries. It is the Company's current intention to invest no more than 40 per cent of its assets at the time of investment in any one sector.

The Company's uncommitted assets will be held on deposit, or in other high-quality fixed-income securities denominated in US dollars, by the Custodian or the Vietnam Sub-Custodian for the benefit of the Company.

The Company is permitted to borrow money and to grant security over its assets. However, the Articles limit such borrowings to 25 per cent of the latest available Net Asset Value of the Company at the time of the borrowing, unless the Shareholders in general meeting otherwise determine by Ordinary Resolution.

All guarantees or indemnities that expose the Company to a contingent liability in excess of 25 per cent of its latest available Net Asset Value must be signed by two Directors pursuant to a duly authorised resolution of the Board in order to be valid.

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## THE FUND

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The Company may hold up to 30 per cent of its assets in cash at any time before or after the Investment Manager determines that the Company has become fully invested should the Investment Manager consider that market conditions warrant such a move.

The principal investment objectives and policies of the Company will not be changed for at least three years from the date of this Placing Memorandum, unless under exceptional circumstances, and then only with the approval of a Special Resolution of the Shareholders.

### INVESTMENT RESTRICTIONS

For as long as the Company is listed on The Irish Stock Exchange, it will observe the following restrictions:

- (a) the Company will not invest more than 10 per cent of its assets at the time of investment in the shares of a single issuer. The Company's investments in Pre-Listing Companies may be made indirectly through offshore holding companies;
- (b) no more than 20 per cent of the assets of the Company may be exposed to the creditworthiness or solvency of a single counterparty, in each case calculated at the time of investment;
- (c) the Company will not take or seek to take legal or management control of the issuer of underlying investments;
- (d) the Company will adhere to the general principle of diversification in respect of all its assets;
- (e) although the Company does not intend to invest in real property, if for any reason it should do so it will comply with the rules of The Irish Stock Exchange not to invest more than 10 per cent, in aggregate, of the assets of the Company in real property;
- (f) although the Company does not intend to invest in commodities, if for any reason it should do so it will comply with the rules of The Irish Stock Exchange not to invest more than 10 per cent, in aggregate, of the assets of the Company in physical commodities.

In addition, under Vietnamese law:

- (g) Foreign investors (such as the Company) as a group are currently restricted from holding in excess of 30 per cent of the total issued shares of any Listed Company. The Company will not attempt to purchase shares in any Listed Company which would result in a breach of such regulations, though the Company may take advantage of any relaxation of such regulations as may occur over the course of time.
- (h) Foreign investors can only own up to 30 per cent of a domestic joint stock company. In some sectors, a foreign investor is not specifically allowed to own any shares in a domestic joint stock company. The Company intends to invest only in Pre-Listing Companies which are authorised to sell shares to foreign investors and generally not to seek to purchase more than 10 per cent of the shares of a Pre-Listing Company that is a domestic joint stock company at any time. The Company will ensure that it is in compliance with shareholding regulations on listing.

The Administrator or the Administrator's Agent shall not be responsible for monitoring compliance with the investment policies and restrictions described above.

### INVESTMENT PROCEDURES AND INVESTMENT REALISATION

The Company's main focus will be on Listed Companies, with fundamental analysis to be performed by the Investment Manager, relying on its own in-depth knowledge of Vietnam, the Vietnam Stock Exchange and the companies listed on it and the contacts its directors have built up during their years of Vietnam experience. The Investment Manager will use third party investment banking knowledge where available, but it does not anticipate placing much reliance on it at the current time.

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## THE FUND

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Investments in Pre-Listing Companies will be originated from a variety of sources. The most significant of these sources are the Investment Manager, banks and other professional intermediaries known to the Investment Manager. One of the directors of the Investment Manager, Jonathon Waugh, has been resident in Vietnam for over six years and has been working with Vietnamese companies in his various roles since 1997. The other director, Kevin Snowball, has over 17 years experience of Asian emerging markets.

The Investment Manager intends to monitor the investments made by the Company closely. In monitoring the investments, the Investment Manager intends to review all relevant financial statements and maintain contact with the board and management of the Investee Companies.

The Investment Manager will provide a report to the Directors, in advance of the regular meetings of the Directors, covering its activities and its proposed strategy until the next regular meeting, all in such form and detail as may be requested by the Directors. In making investments, the Investment Manager will comply with the investment objective, policies and restrictions of the Company as may be amended from time to time and with the Articles and the requirements of The Irish Stock Exchange.

The Board has delegated decision making powers with regard to investments to the Investment Manager and such powers have not been delegated to any party by the Investment Manager. The Investment Manager will be responsible for all aspects of the implementation and execution of investment decisions.

The Company intends to realise the profits upon its investments through appropriate sales of its listed securities. The general expectation is that shares of Investee Companies which are Pre-Listing Companies will be listed within six months after being acquired, so that profits can be realised through sales of their shares on the Vietnam Stock Exchange. However, the ability of the Company to exit its investments in Pre-Listing Companies if such a company is unable to obtain a listing constitutes a risk for Shareholders as described in “Risk Factors” on page 29.

The ability of the Company to dispose of an investment and the timing and terms of any such disposal may in certain instances be limited or affected by rights of first refusal. If a Pre-Listing Company initially established under the Law on Foreign Investment does not obtain a listing on the Vietnam Stock Exchange, and a trade or other negotiated sale becomes necessary in order for the Company to exit its position, any Vietnamese partners in such Pre-Listing Company would have a right of first refusal upon such sale. Such rights of first refusal may also exist in domestic Vietnamese companies governed by the Enterprise Law and this may affect the Company if a domestic Vietnamese company in which the Company has invested does not obtain a listing on the Vietnam Stock Exchange.

### **FOREIGN EXCHANGE POLICY**

It is the Company’s policy to determine the valuations of all investments in US dollars. Consequently, the value of its investments may fluctuate with changes in the rate of exchange of the US dollar against the Dong. The Company may, however, enter into arrangements to hedge currency risks if such arrangements become desirable and practicable in the future in the interest of efficient portfolio management.

### **BOARD OF DIRECTORS**

The business of the Company will be managed under the direction of the Company’s Board of Directors. The Directors are responsible for establishing the Company’s investment objectives, policies and restrictions. Board meetings will generally be held at least once each quarter. The Board will monitor the Company’s performance and provide such instructions to the Investment Manager as it considers appropriate.

The Company may have a maximum of six Directors. The Board currently has four Directors all of whom are non-executive Directors. No Director is an employee of the Company. The Board is entitled to appoint and remove two independent, non-executive Directors on the recommendation of two Shareholders who purchase large numbers of shares, as determined by the Board.

The Board makes decisions based on a simple majority vote taken at any quorate meeting. In case of an equality of votes, the Chairman has a second or casting vote.

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## THE FUND

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Details of the current Directors are set out below:

### **Philip Smiley**

Philip Smiley was born in 1951 and educated at Eton and St. Andrews University. He started work for the Solomon Islands Government in 1974, transferring to the Hong Kong Government in 1980, where he served in the Civil Service Branch and Economic Services Branch until 1985. From 1985 – 1990 he worked for the W.I.Carr Group, which became a subsidiary of Banque Indosuez, in both London and Hong Kong, where as Managing Director of W.I.Carr (Far East) Limited he was responsible for Asia ex-Japan. He joined Jardine Fleming in 1990 as Managing Director and Country Head for Korea. While in Korea, he was also Chairman of the British Chamber of Commerce, a board member of the European Chamber, and a non-executive director of Hyundai International Merchant Bank. From 1996-2001 he served as Managing Director and Country Head of Jardine Fleming in Singapore, and was a member of the Singapore Stock Exchange Review Committee. He was appointed Country Chairman of Jardine Matheson in Thailand in June 2001. He also oversees the Group's interests in Vietnam, Cambodia, Laos and Myanmar. In addition to being a board member of several Jardine Matheson affiliates and subsidiaries in Thailand, he is a director of the Arisaig India Fund, and of Asia Commercial Bank in Vietnam.

### **Christopher Vale**

Christopher Vale is a Director and Head of Asia for Rexiter Capital Management, which is an Emerging Markets Investment Management firm which he helped establish in 1997, with US\$786 million under management as at the end of February 2003. At Rexiter he set up their Seoul office in 1998 where he spent 3 years managing a Korean corporate restructuring fund before moving back to London in 2001. Before Rexiter, Christopher was with Kleinwort Benson Investment Management, where he worked from 1985 to 1997, first in London and then from 1989 to 1997 in Hong Kong as Head of Asia. Prior to that Christopher started his career with 5 years in the British Army leaving as a Captain having served in Germany and Northern Ireland. Christopher has a degree in Economics and Agricultural Economics from Exeter University (1980).

### **Dinh Thi Hoa**

Dinh Thi Hoa graduated from Moscow State University in 1985 with an honours degree in Political Sciences and Journalism. On returning to Vietnam, she worked for the Ministry of Foreign Affairs and thereafter the United Nations. In 1990 she attended Harvard University where she completed her MBA in 1992. She then spent a year working for Procter & Gamble in Thailand, leading to her being placed in charge of the Procter & Gamble team in Vietnam that was responsible for establishing the company's US\$ 90 million joint-venture in Vietnam. In 1994 she established Thien Ngan Galaxy Ltd, a consulting and PR company which is now one of largest firms in its sector in Vietnam, advising companies and organisations such as NTT, Allianz Insurance, the World Bank and the International Finance Corporation, and she is currently the managing director of this company. In addition, she established and is Chairman of An Lac Ltd, a potato chip manufacturer. She is also Chairman of Fast Accounting Joint-Stock Company, a software business, and Deputy Chairman of Togi Joint-Stock Company, a property development company. She is also one of the comptrollers of Asia Commercial Bank, Vietnam's largest private bank measured in terms of authorised capital, and, in this role, attends the bank's board meetings. She also sits on the advisory board of the Mekong Project Development Facility, which is a programme funded by various national and multinational donors to encourage the growth of small and medium size private businesses in the Mekong region.

### **Tony Jordan**

Tony Jordan is a director of Atlantis Investment Management Limited and the fund manager for the Atlantis Asian Recovery Fund. He has over 20 years experience investing in Asia and was resident in Hong Kong from 1982-1996. Prior to joining Atlantis he was a director at Schroder Investment Management (Hong Kong) Limited where he was responsible for the Far Eastern investment strategy and was fund manager of the Schroder Far Eastern Growth Fund and the Asian Smaller Companies Fund. In 1996, Tony returned to London and co-founded the Asian equity specialist, Atlantis Investment Management Limited.

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## THE FUND

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### **INVESTMENT MANAGER**

The Investment Manager was incorporated with limited liability in the British Virgin Islands on 2 October 2002. The Company will be the first client of the Investment Manager.

Between them, the directors of the Investment Manager have substantial experience in research into companies listed on the Vietnam Stock Exchange and in advising on and dealing in emerging market securities generally.

The Investment Manager will provide a continuous investment programme for the Company's assets, including seeking suitable investments for the Company, advising and supporting in relation to the development of investments held by the Company, determining the appropriate time for the disposal of its investments, and the provision of investment research and advice with respect to all securities and investments and cash equivalents comprised in the Company's assets.

The following personnel of the Investment Manager will be principally responsible for the day-to-day management of the Company's portfolio:

#### **Kevin Snowball**

Kevin Snowball graduated from the University of London's School of Oriental and African Studies in 1982 with an honours degree in Law. He spent a decade in Hong Kong from 1985 - 1995 initially as an investment analyst and then as a specialist manager and trader of proprietary funds in emerging equity and equity derivatives markets in South East Asia. During that period, among other things, he established the Hong Kong equity derivatives businesses of Baring Securities and Deutsche Morgan Grenfell. On returning to the United Kingdom in 1995 he worked for Dresdner Kleinwort Benson, where he was involved in Latin American and South East Asian sales trading, and then for Bear Stearns International, where he traded closed-end funds in global emerging markets. Most recently, he established the Global Emerging Markets and Japan Investment Company activity of ABN Amro in London. He returned to Asia to live in Vietnam in 2002, where he co-founded Phan Xi Pang Asset Management Limited, the holding company of the Investment Manager. He was a director of the Beta Viet Nam Fund from October 2002 until April 2003, when he resigned.

#### **Jonathon Waugh**

Jonathon Waugh graduated from Southbank University in London in 1992 with an honours degree in Business Studies. He spent the following four years working for Baring Asset Management in London. In May 1996 he moved to Vietnam where he spent a year at the Hanoi National University learning Vietnamese which he now speaks relatively fluently. Thereafter, he was employed by Jardine Fleming as their chief representative in Vietnam and managed their representative offices in both Hanoi and Ho Chi Minh City until September 2002. He also acted as country analyst, covering Vietnam's economy and political development. Since 1999 he has also been employed by Jardine Matheson, for whom his main responsibility has been to manage its equity interest in Asia Commercial Bank, Vietnam's largest private bank measured in terms of authorised capital. He has been an alternate director of Asia Commercial Bank since 1999 and has helped to advise the bank on strategy, development and investments. He is also the Deputy General Director and chief research analyst of Asia Commercial Bank's securities subsidiary, ACB Securities, a company which he helped to establish in 2000. By 2001 ACB Securities had become the most profitable securities company in Vietnam. He also created the research department for ACB Securities which maintains a research database and produces market analysis and company reports on all of the companies listed on the Vietnam Stock Exchange. He is the first, and to date the only, foreigner to be permitted by the SSC, the regulatory authority for the Vietnam Stock Exchange, to work for a Vietnamese securities company and to participate in the Vietnam Stock Exchange. In October 2002, he co-founded Phan Xi Pang Asset Management Limited, the holding company of the Investment Manager.

### **ADMINISTRATOR**

Bank of Bermuda (Cayman) Limited has been appointed to act as administrator of the Company, and as such to provide a range of administrative and registrar services (including calculation of the Net Asset Values) to the Company pursuant to the Administration Agreement. The fees to which the Administrator is entitled are described on page 25 below under "Other Fees and Expenses."

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## THE FUND

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Bank of Bermuda (Cayman) Limited was incorporated in the Cayman Islands on 21 June 1988 and is a licensed bank and a trust company under the Banks and Trust Companies Law (2001 Revision) of the Cayman Islands. It is a subsidiary of The Bank of Bermuda Limited which is a licensed bank incorporated in Bermuda under the Bank of Bermuda Act 1890.

The Bank of Bermuda Limited is engaged in a wide range of international banking and trust services through its main office in Bermuda and its subsidiaries worldwide. As at 31 December 2002, the Bank of Bermuda Group had approximately US\$104.9 billion in assets under administration and the consolidated gross assets of The Bank of Bermuda Limited amounted to approximately US\$11.1 billion.

### SECRETARIAL SERVICES

Pursuant to the Secretarial Services Agreement, which is more fully described on page 53 below, CARD Corporate Services Ltd. has been appointed to provide company secretarial services for, and the registered office of, the Company. CARD Corporate Services Ltd. is a company affiliated with the Cayman Islands law firm of Charles Adams, Ritchie & Duckworth.

The fees to which the Secretary is entitled are described on page 25 below under “Other Fees and Expenses.”

### CUSTODIAN

Deutsche Bank A.G. provides custodian services to the Company pursuant to the Custody Agreement, which is more fully described on page 51 below.

The Custodian will hold such of the Company’s assets as can be legally held outside of Vietnam. Vietnamese law requires that the Company’s shares in Listed Companies must be held by a custodian registered as such in Vietnam and these assets will therefore be held by the Vietnam Sub-Custodian. The Vietnam Sub-Custodian will also hold for safekeeping all original title documents of the Company with regard to the Company’s investments in Pre-Listing Companies.

Sub-Custodians may be appointed by the Custodian, provided that the Custodian exercises reasonable skill, care and diligence in the selection of a suitable sub-custodian and is responsible to the Company for the duration of the sub-custody agreement for satisfying itself as to the ongoing suitability of the sub-custodians to provide custodial services to the Company. The Custodian will also maintain an appropriate level of supervision over the sub-custodians and will make appropriate inquiries periodically to confirm that the obligations of the sub-custodians continue to be competently discharged.

Deutsche Bank has been providing custody services in Hong Kong since August 1995. The Custodian is regulated by the Hong Kong Monetary Authority, which is the government authority supervising the banks and deposit-taking companies in Hong Kong. The assets under custody were around HKD 34 billion (about US\$ 4.4 billion) in the year 2002. The Custodian operates a Regional Domestic Custody Services Branch Network, which covers 23 markets worldwide, of which 12 markets are in Asia, providing services to banks, global custodians, fund managers and broker/dealers.

### CLEARING

The Company will seek admission for the Shares to be issued pursuant to this Placing Memorandum to be cleared through Euroclear and Clearstream. The ISIN Code for the Shares is KYG7301W1033.

### CONFLICTS OF INTEREST

The following inherent or potential conflicts of interest should be considered by prospective investors before investing in the Company:

#### Other Clients

The services of the Investment Manager to the Company are not exclusive. While the Investment Manager itself

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## THE FUND

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does not render services to other companies at the current time, it may do so in the future. The parent company of the Investment Manager, Phan Xi Pang Asset Management Limited, or any other affiliate of the Investment Manager, may also render asset management services to parties other than the Company. Conceivably, conflicts might arise whereby investment opportunities that are limited in availability must be allocated between the Company and other parties for whom the Investment Manager, or one of its Related Parties, provides services. If this occurs, the Investment Manager intends to act fairly as between all of its clients.

Some investments may not be limited in availability but may be appropriate for both the Company and for other clients advised or managed by the Investment Manager or one of its Related Parties. Investment decisions for the Company and for such other clients will be made with a view to achieving their respective investment objectives and after consideration of such factors as their current holdings, their current investment needs, availability of cash for investment, and the size of their positions generally. A particular investment may be bought or sold for only the Company or only one client or in different amounts and at different times for more than one but less than all clients, including the Company. Likewise, a particular investment may be bought for the Company or one or more clients when one or more other clients are selling the same security. In addition, purchases or sales of the same investment may be made for two or more clients, including the Company, on the same date. In such event, such transactions will be allocated among the Company and clients in a manner believed by the Investment Manager to be equitable to each. In effecting transactions, it may not always be possible, or consistent with the possibly differing investment objectives of the various clients and of the Company, to take or liquidate the same investment positions at the same time or at the same prices.

### **Other Activities**

The Investment Manager or one of its Related Parties may engage in other business activities and may manage the accounts of clients other than the Company. The Investment Manager is not required to refrain from any other activity, to account for any profits from any such activity, or to devote all or any particular part of the time and effort of any of its officers, directors or employees to the Company and its affairs.

### **Contracts with the Company or Investee Companies**

Under the Investment Management Agreement, the Investment Manager has undertaken that, except as specifically approved by the Board, it will not sell assets to or purchase assets from the Company, it will not enter into any other transactions with any Investee Company, and it will not otherwise be interested in any such transaction (except that directors or employees of the Investment Manager may act as directors of Investee Companies and be paid fees and expenses for so doing).

It is possible that Directors or other Related Parties of the Company may own interests in Investee Companies or otherwise be interested in transactions between the Company and Investee Companies. Such Directors or other Related Parties do not have to account to the Company for any profit or other benefit received by them from their interest in such Investee Company, although Directors of the Company have to disclose to the Company their interest in such Investee Company if it is material. A Director is not entitled to vote on (and will not be counted in the quorum in relation to) any resolution of the Board in respect of any contract or arrangement in which he is to his knowledge materially interested.

### **Ownership of Shares**

The Investment Manager owns the one Share in the Company that has been issued to date. See “Supplementary Information about the Company - Establishment” at page 43.

The Investment Manager or Related Parties of the Investment Manager may own additional Shares in the Company, and Related Parties of the Company may own shares in the Investment Manager.

### **Placing Agent**

The Placing Agent is indirectly owned by the same individuals who own the Investment Manager.

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# THE FUND

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## Handling of Conflicts

In the event that any transaction involving an actual conflict of interest were to occur which could have an effect on the performance of the Company, the intention of the Company is that the conflict would be resolved in a manner that is fair and reasonable with respect to all parties concerned.

## FEES AND EXPENSES

The Company will pay out of the proceeds received from the Placing the maximum sum of US\$200,000 (including an establishment fee of US\$15,000 payable to the Administrator) to cover all fees and expenses of the Placing, including the fees and expenses incurred by the professional advisers in respect of the preparation of this Placing Memorandum and the various documentation contemplated hereby. Such fees and expenses will be expensed in the year incurred, except for fees payable to the Company's principal legal advisor, which will be amortised over a period of two years.

## Management Fee

The Company will pay to the Investment Manager a monthly management fee equal to one-twelfth of two per cent of the Net Asset Value of the Company which fee shall accrue daily and be payable monthly in advance and be calculated by reference to the Valuation Day at the end of the preceding month. The first payment is due two business days after the Closing Date in respect of the period from the Closing Date to the end of the first calendar month, and will be calculated by reference to the total proceeds of the Placing on the Closing Date. The Investment Manager will not receive an incentive or performance fee.

## Other Fees And Expenses

The Investment Manager may appoint, at the expense of the Company, on arms' length commercial terms, such lawyers, accountants, consultants and others as are required in relation to the appraisal, acquisition, maintenance and disposal of investments by the Company. The Investment Manager may also appoint such other agents of the Company as it may consider appropriate to accomplish the goals of the Company, using its best judgment in the circumstances. The Company shall be responsible for the payment of such agents. The Investment Manager will only be responsible for the fees and expenses of agents who perform services on behalf of the Company if the Company demonstrates that they are fulfilling a function that should be within the normal abilities of an investment manager of average skill and diligence managing a portfolio of the size of that managed by the Investment Manager in Vietnam.

The Company is responsible for the prompt payment or reimbursement to the Investment Manager or other parties instructed by the Investment Manager of any costs and expenses of the Company, including costs and expenses relating to the administration of the Company, the costs of maintaining the Company's investments and the costs of investments or divestments by the Company, including any legal fees, consulting fees, commissions, transfer fees, registration fees, taxes and similar liabilities and costs.

The Board will determine the fees payable to each Director, subject to a maximum aggregate amount of US\$50,000 per annum being paid to the Board as a whole. The Company will also pay reasonable expenses incurred by the Directors in the conduct of the Company's business including travel and other expenses. None of the Directors currently has a service contract with the Company.

The Company will pay for directors and officers liability insurance coverage, if any.

The Company will bear the costs of seeking and maintaining the listing of the Shares on The Irish Stock Exchange.

The Custodian will receive a safe-keeping fee of 0.035 per cent per annum of the value of the assets held by it in Hong Kong (0.05 per cent per annum for fixed income assets held through Euroclear) which fee will be calculated based on the month-end valuation of securities under custody, will accrue daily and will be payable monthly in arrears. In addition, the Vietnam Sub-Custodian will receive an account maintenance fee of \$330 per month if it maintains one to five securities accounts and \$550 per month if it maintains six to ten securities

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## THE FUND

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accounts. The Custodian and Vietnam Sub-Custodian will also charge certain fees for actual transactions. The Custodian and Vietnam Sub-Custodian will also be entitled to charge their out – of – pocket and any third party expenses, which will be billed as and when they are incurred.

The Administrator will receive an inception fee of US\$15,000 payable as soon as practicable after the Closing Date out of the proceeds of the Placing. In consideration for the services to be performed under the Administration Agreement, the Administrator will receive a fee of 0.135 per cent of the Net Asset Value per annum subject to a minimum amount of US\$1,800 per month which fee shall accrue daily and be calculated as at each Valuation Day and be payable monthly in arrears. The Administrator is also entitled to be reimbursed reasonable out-of-pocket expenses.

The Secretary will receive an annual fee of US\$1,000 for providing certain company secretarial services to the Company and an annual fee of US\$1,000 for providing the Company's registered office. Such fees are payable in advance by the beginning of each calendar year and may be amended from time to time by mutual agreement of the parties. In addition, the Secretary is entitled to recover from the Company all expenses and disbursements (including filing and registration fees paid to the Registrar, courier, telephone, facsimile, printing and photocopying) properly incurred or paid by the Secretary on behalf of the Company or otherwise in the performance of its services under the Secretarial Services Agreement. Additional legal services, if any, would be referred to Charles Adams, Ritchie and Duckworth and would be paid for on the basis of time incurred.

The Company is also responsible for all administrative costs relating to the Company, including the costs of preparing, printing and distributing reports and financial statements, the costs incurred in printing and publishing the Net Asset Value, and any additional costs incurred from time to time.

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# PLACING PROCEDURES

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## PLACING PROCEDURES

### PLACING PROCEDURES AND INVESTING IN THE COMPANY

Pursuant to the Placing Agreement between the Company and the Placing Agent, the Placing Agent has agreed to use its best efforts to procure Professional Investor subscribers for 10,000,000 Shares at a subscription price of US\$2.50 per Share plus a placing fee of up to US\$0.05 per Share which the Placing Agent is entitled to retain. The Placing is subject to a minimum of 2,000,000 Shares, and a maximum of 10,000,000 Shares, being placed, subject to an increase to 12,000,000 Shares to cater for over-subscriptions, if any. The Directors may decide to increase the maximum number of Shares to be offered to 12,000,000 Shares within 30 days of the Closing Date if there is any over-subscription.

Subscribers are required to return the Application Form, by facsimile to the Placing Agent, by no later than 5.00 p.m. (Hong Kong time) on the Closing Date. The Application Form contains, among other things, representations that the subscriber is a Professional Investor.

Subscribers will need to pay the full subscription price as set out above in US dollars by telegraphic transfer to:

Deutsche Bank Trust Company Americas  
SWIFT Bic Code: BKTR US33

For Account Deutsche Bank AG Hong Kong  
SWIFT Bic Code: DEUT HKHH  
CHIPS UID 009391

In favour of: PXP Vietnam Fund Limited

Account No.: 0001610-05-0

so as to be received not later than 5:00 p.m. (Hong Kong time) on the Closing Date or, as the Placing Agent may agree, forthwith after the Closing Date against confirmation that the relevant Shares will be registered in the name of the proposed investor, subject to allotment.

Subscriber reference should be included with each payment made.

As soon as possible following the Closing Date, the Placing Agent will advise the Board whether applications have been received for the minimum subscription. If the minimum subscription is satisfied, but the maximum subscription is not, by the Closing Date, then the Directors may decide, by notice to the Placing Agent, that the Placing Agent may continue to offer Shares until five business days after the Closing Date.

Following the issue and allotment of Shares, the Administrator will arrange for the despatch of the confirmation of the allotment of the relevant number of Shares within 14 Business Days of receipt of instructions that the allotment has been effected. Holders of the Shares will have their names registered in the register of Shareholders with effect from the date of allotment. No share certificates will be issued unless a Shareholder specifically requests one.

The Company reserves the right to reject any application for Shares and to accept any application for Shares in whole or in part only, provided that the minimum subscription which will be accepted from each new Shareholder is for 40,000 Shares. Any subscription by a Shareholder of above 40,000 Shares, will only be acceptable in multiples of 10,000 Shares except as otherwise decided by the Directors in their discretion. No fractional shares will be issued.

The Placing is not underwritten and is conditional upon (a) receipt by the Placing Agent not later than 5.00 p.m. (Hong Kong time) on the Closing Date of valid applications for a minimum of 2,000,000 Shares, excluding any Shares applied for to the extent that the relevant application is not accepted, and (b) admission of the Shares to the Official List of The Irish Stock Exchange, subject to allotment.

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## PLACING PROCEDURES

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If the conditions referred to in the preceding paragraph are not fulfilled or any application is not accepted or is accepted in part only, application moneys that have been contributed or (as the case may be) the excess application money contributed by each relevant investor will be returned (without interest) to the relevant applicant(s), at the risk of the applicant.

### **Verification of Identity**

Measures aimed towards prevention of money laundering may require a subscriber to verify his identity (or the identity of any beneficial owner on whose behalf the subscriber intends to hold the interests in the Company) to the Placing Agent. This obligation is absolute unless (1) the application is being made via a regulated credit or financial institution or (2) payment is made to the Custodian from an account held in the subscriber's name with a banking institution, which in either case is in a country which is a member of the Financial Action Task Force. If alternative (1) applies, the Placing Agent may seek to obtain written assurance of the subscriber's (or beneficial owner's) identity from the relevant institution.

The Placing Agent will notify applicants if proof of identity is required. By way of example, corporate applicants may be asked to produce a certified copy of the certificate of incorporation (and any change of name), memorandum and articles of association (or equivalent) and the names and addresses of directors and/or beneficial owners.

The Placing Agent, the Administrator and/or the Administrator's Agent reserves the right to request such documentation as it deems necessary to verify the identity of the applicant and to verify the source of the relevant money. Failure to provide the necessary evidence may result in applications being rejected or in delays in the despatch of documents and/or issue of Shares. The Placing Agent, the Administrator and/or the Administrator's Agent will be held harmless by a potential subscriber against any loss arising as a result of a failure to process a subscription or redemption request if such information as has been requested by the Placing Agent, the Administrator and/or the Administrator's Agent has not been provided by the applicant.

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# RISK FACTORS

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## RISK FACTORS

Investment in Vietnam carries a high degree of risk. The Company's investments in Vietnam will be subject to certain special risks as well as normal investment risks. There can be no assurance that the investments of the Company will be successful or that its objectives will be attained. Accordingly, investment in the Company should be considered to be speculative in nature and only suitable for sophisticated investors who are aware of the risks involved in investment in the Company and who have the ability and willingness to accept the anticipated lack of liquidity in the investments of the Company, the illiquid nature of investment in the Shares and the risk of total loss of capital resulting from investment in Vietnam.

### Investment Risks and Trading Risks in General

All securities investments present a risk of loss of capital. The Directors believe that the Company's investment policy will moderate this risk through a careful selection of securities. However, the Company will be subject to market risk, interest rate risk, credit risk and foreign currency risk:

(a) Market risk

Market risk is the risk that the value of a financial asset will fluctuate as a result of changes in market prices, whether or not those changes are caused by factors specific to the individual asset or factors affecting all assets in the market.

The Company will be exposed to market risk on all of its investments, but in the case of its investments in Listed Companies, such market risk relates to the Vietnam Stock Exchange and other exchanges, if any, where the Company's investments are listed.

Furthermore, there is no certainty that the market price of the Shares will fully reflect their underlying net asset value. Shares of closed-end investment companies frequently trade at a discount to net asset value. This characteristic of shares of a closed-end fund is a risk separate and distinct from the risk that the Net Asset Value may decrease.

(b) Interest rate risk

Interest rate risk is the risk that the value of interest-bearing assets will fluctuate in value as a result of changes in interest rates.

(c) Credit risk

To the extent that the Company is exposed to the credit of a counterparty on an unsecured basis, it generally will not have a priority claim to any of the counterparty's assets upon a default. If the counterparty has secured creditors, the secured creditors will be entitled to repayment from the counterparty's assets in priority to the Company. Moreover, the Company may have to share the residual value of a defaulting counterparty's assets with other unsecured creditors. Consequently, there can be no assurance that the Company would recover any of the amount owed to the Company by a defaulting counterparty.

(d) Foreign currency risk

Foreign currency risk is more fully described at "Exchange Risk" and "Currency Conversion" at page 31.

**In addition, prospective investors should be particularly aware of certain specific risk factors relating to Vietnam, the Company, and the nature of the Company's investments. These include:**

### Lack of Operating History

The Company and the Investment Manager are newly formed. There can be no assurance that the Company will

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## RISK FACTORS

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achieve its investment objective.

### **Business Dependent Upon Key Individuals**

The success of the Company is significantly dependent upon the expertise of Kevin Snowball and Jonathon Waugh and any future unavailability of their services could have an adverse impact on the Company's performance.

### **Limited Liquidity**

It may be considerably more difficult for the Company to exit its investments than it is for investors in more developed geographic regions. The Vietnam Stock Exchange only started operations in July 2000, may be more regulated than other regional stock exchanges, and may continue to exhibit limited liquidity. See description of the Vietnam Stock Exchange at page 37. Nevertheless, the Company intends to invest a majority of its assets in shares listed on the Vietnam Stock Exchange.

In addition, the Company will endeavour to realise investments in Pre-Listing Companies through listings on the Vietnam Stock Exchange. However, few companies have listed shares on the Vietnam Stock Exchange and there is no guarantee that the Vietnam Stock Exchange will provide liquidity for the Company's investments in Pre-Listing Companies.

### **Investments in Listed Companies**

Trading on the Vietnam Stock Exchange is subject to various restrictions. Price changes are subject to daily limits of 5 per cent in either direction. Foreign investors who wish to purchase shares through the Vietnam Stock Exchange must register through a custodian licensed to hold securities on behalf of foreigners. Total foreign ownership of a Listed Company is currently limited to 30 per cent of the issued shares.

### **Investments in Pre-Listing Companies**

While the Company does not intend to invest more than 30 per cent of its assets at the time of investment in Pre-Listing Companies, and while such investments may offer the opportunity for significant capital gains, such investments also involve a high degree of business and financial risk. For example, even though the Company intends to invest only in companies which it reasonably expects to list on the Vietnam Stock Exchange, if such a Pre-Listing Company is unable to obtain a listing within the six months expected at the time of investment, it may turn out to need additional capital to support its business before listing on the Vietnam Stock Exchange. There is no assurance that the Company will have the necessary capital to provide for such Pre-Listing Company's future capital needs or that other sources of financing will be available to it.

Generally, the Company's investments in Pre-Listing Companies will be difficult to value, and there will be little or no protection for such investments. If a listing on the Vietnam Stock Exchange is not possible, investments in Pre-Listing Companies may have to be held for an appreciable time. Sales of securities in Pre-Listing Companies which fail to obtain a listing may not be possible and, if possible, may only be possible at substantial discounts.

### **Competition – Investee Companies**

Competition in business in Vietnam is increasing swiftly, partly as a result of the country's increasing internationalisation. The financial viability of some investments made by the Company may be affected by changes in Vietnam's trade regime. The Company's investments in export oriented industries, for example, may be affected by changes in trade regimes or by protectionist measures in foreign countries, as has happened recently in the United States in connection with its imports of catfish. Similarly, the Company's investments in Investee Companies selling into the domestic market may be adversely affected by increasing competition from international firms as trade barriers are reduced, such as those resulting from increasing compliance with the Common Effective Preferential Tariff programme under the ASEAN Free Trade Area and the US - Vietnam Bilateral Trade Agreement. As a result of such changes, and other market forces, the Company's investments could suffer substantial declines in value at any stage.

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## **RISK FACTORS**

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### **Limited Investment Opportunities**

Other companies, institutions and investors, both Vietnamese and foreign are active in seeking investments in Vietnam. Competition for a limited number of attractive investment opportunities may lead to a delay in investment and may increase the price at which investments may be made and reduce the potential profits.

Although there has been a gradual easing of restrictions, foreign investment in the securities of companies in Vietnam is nevertheless still restricted or controlled to varying degrees. These restrictions or controls limit foreign investment in many areas and preclude it altogether in certain sectors. The laws of Vietnam normally limit the amount of investment by foreign persons in a particular company and may require prior governmental approval for such investment. In addition, Vietnam restricts investment opportunities in companies or industries deemed important to national interests. The Company could be adversely affected by delays in, or a refusal to grant, any required governmental approval for investment in a particular company, as well as by the application to the Company of any restrictions on investments.

### **Legal System**

The laws and regulations affecting the Vietnamese economy are in an early stage of development and are not well established. Although the legal system in Vietnam is improving, and the Government appears to be planning substantial further legal reforms, there can be no assurance that the Company will be able to obtain effective enforcement of its rights by legal proceedings in Vietnam, nor is there any assurance that improvements will continue. As Vietnam's legal system develops, there are inconsistencies and gaps in laws and regulations, the administration of laws and regulations by government agencies may be subject to considerable discretion, and in many areas the legal framework is vague, contradictory and subject to interpretation. Furthermore, the judicial system may not be reliable or objective and the ability to enforce acknowledged legal rights is often lacking.

There is therefore not the same degree of certainty as investors would expect if they invested in other jurisdictions.

### **Political and Economic Risk**

The value of the Company's assets and of an investment in the Company may be adversely affected by changes in Government, Government personnel or Government policies, which may include, among other things, changes in economic policy, taxation, investment regulations, securities regulations and foreign currency conversion or repatriation. While Vietnam has implemented many reforms which have improved the overall framework for investors and companies in which they invest, there is no guarantee that reform will continue or that it will continue at any particular pace.

### **Accounting, Auditing and Financial Reporting Standards**

Vietnam's accounting, auditing and financial reporting standards, practices and disclosure requirements differ from those in more developed countries. Less information may therefore be available to the Company than in respect of investments in more developed countries. However, the Company intends to make investments in Pre-Listing Companies on the basis of financial statements audited by a major international firm of accountants, and Listed Companies are all required to have audited financial statements. In addition, the Investment Manager intends to encourage the management of Investee Companies to adopt international accounting standards and practices in order to improve the standing of their company in the view of international investors.

### **Exchange Risk**

The Net Asset Value per Share is expressed in US dollars and will fluctuate in accordance with, among other things, changes in the foreign exchange rate between the US dollar and the Dong. Shareholders' investments in the Company will be made in US dollars, and the Company will have to convert such US dollars into Dong prior to making investments. It will have to convert Dong back to US dollars prior to distributing any income and realisation proceeds from such investments. There can be no assurance that fluctuations in exchange rates will not have an adverse effect on (a) the Net Asset Value, or (b) the distributions received by Shareholders in US dollars after conversion of the income and realisation proceeds from the Company's Dong-denominated

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## **RISK FACTORS**

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investments. In 1998, 1999, 2000, 2001 and 2002 the Dong depreciated against the US dollar by 13 per cent, 1 per cent, 3.4 per cent, 3.9 per cent and 1.94 per cent, respectively. The Company may seek to hedge against a decline in the value of the Company's investments resulting from currency depreciation but only if and when suitable hedging instruments are available on a timely basis and on acceptable terms. There is no assurance that any hedging transactions engaged in by the Company will be successful in protecting against currency depreciation.

### **Currency Conversion and Capital Controls**

Most of the Company's investments will be in securities that are denominated in Dong and that pay dividends in Dong. The Company will need to convert Dong back to US dollars to make distributions to Shareholders, but the Dong is currently not a convertible currency. The Government does not guarantee that hard currency will be available to the Company or that it will receive any priority if there is a shortage.

Although the Company may use its Dong revenue from sales of investments in Listed Companies to purchase foreign currency to remit abroad, Vietnamese law restricts the remittance abroad of such funds within one year from the date of the funds used to purchase the shares of such Listed Company were originally transferred into a Vietnamese Dong trading account with a bank authorised to hold such accounts.

With respect to sales of investments in Pre-Listing Companies, Prime Minister's Decision 36 provides that foreign investors can convert income and realisation proceeds into hard currency and remit them overseas upon the fulfilment of all tax obligations in accordance with Vietnamese law. However, in the absence of any regulations implementing these provisions of Decision 36 on investors' conversion rights, the mechanics of conversion will depend on the State Bank of Vietnam's regulations. For investments in Pre-Listing Companies, relevant regulations are either not yet in existence or currently not clear. Until the State Bank of Vietnam issues clear procedures for conversion of Dong into foreign currency by an offshore investment fund, it is possible that the Company may have difficulty accomplishing such conversion. This may include the need to obtain a special approval, and such approval may not be received quickly or at all. Any delay in conversion increases the Company's exposure to depreciation of the Dong against other currencies. If conversion is not effected at all, some of the Company's assets may be denominated in a non-convertible currency.

### **Legal Considerations**

The issue of the Shares in certain jurisdictions may be restricted by law. Investment in the Company may involve legal requirements, foreign exchange restrictions and tax considerations unique to each investor. Prospective investors should consult their own legal and tax advisers prior to making an investment decision. Shares that are acquired in violation of applicable law, as determined by the Company, may be required to be transferred or may be compulsorily redeemed by the Company.

### **Absence of an Active Secondary Market**

Although the Company expects to list the Shares on The Irish Stock Exchange, it does not expect that an active secondary market will develop in the Shares. However, PXP Capital Markets Limited, a company which is related to the Investment Manager, will assist where possible in providing entry and exit opportunities for investors in accordance with applicable laws and regulations.

### **Conflicts of Interest of Investment Manager**

Potential conflicts of interest are more fully described at page 23.

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# **THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE**

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## **THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE**

The following overview should be read in conjunction with the information described in the section entitled Risk Factors at page 29. The information provided in this section has been derived, as far as possible, from the following sources: Ministry of Finance, State Securities Commission, Securities Trading Centre, General Statistics Office, State Bank of Vietnam, Ministry of Planning and Investment, International Monetary Fund, ACB Securities, Reuters, Dow Jones, Far Eastern Economic Review, Vietnam News Brief Service, Vietnam Investment Review, Thoi Bao Kinh Te Newspaper, Vietnam Economic News, Thanh Nien Newspaper, Asia Pulse, ASEAN Secretariat, Vietnam Trade Office in the USA and Vietnam News. Such information is believed to be accurate, but has not been independently verified by the Company or the Investment Manager. The analysis is the opinion of the Directors. Such opinions are believed to be accurate, but alternative opinions are also valid and no assurance can be given that hindsight will prove the opinions of the Directors to be accurate or more accurate than other opinions.

### **OVERVIEW OF ECONOMIC REFORM AND RESULTING GROWTH**

Since 1986, Vietnam has been undergoing a transition from a centrally planned agrarian economy to a diversified market economy with growing industrial and services sectors. Reform programmes promoting economic diversification, industrialisation and modernisation have been supplemented by the reforms necessary in order for the country to attain its desire to integrate into the global economy.

The path has not been smooth. Reforms slowed after the advent of the Asian financial crisis in 1997. However, new leadership has been able to place the reform programme back on track. A number of private sector reforms began appearing in 2000. In 2001 major political and economic reforms were put on the Government's agenda and the process accelerated again.

In April 2001, the Ninth Party Congress endorsed the 2001-2010 Socio-Economic Development Strategy (the "2001 Strategy"), the principal objective of which is to allow Vietnam to achieve industrialised nation status by 2020. The March 2002 meeting of the Plenum of the Central Committee of the Communist Party of Vietnam called for the development of private enterprises, endorsed entrepreneurship, and encouraged a level playing field for public and private enterprises. Consistent with these reform policies, numerous amendments were recently made to Vietnam's Constitution, including the addition of the principle that all privately owned businesses and SOEs would be allowed to engage in production and trading in industries in the absence of an express legal prohibition. These constitutional amendments also acknowledge Vietnam's integration into the international economy, sanction the development of a market economy, recognise the importance of foreign direct investment and direct the State to better satisfy the people's material demands.

Since 2000, reforms have not only been implemented more swiftly than before 2000, but due to the lessons learnt from the growing pains of the 1990s, which resulted in widespread disillusionment among foreign investors, they have also been more effective. These improvements are exemplified by several recent international commitments made by Vietnam towards free trade, economic reform and business liberalisation: an agreement with the IMF in April 2001; the signing of the US-Vietnam Bilateral Trade Agreement ("USBTA"), which came into force in 2001; and its implementation of the ASEAN Free Trade Agreement ("AFTA") requirements. In addition, Vietnam is actively pursuing its application for membership in the WTO, with a possibly unrealistic Vietnamese target accession date of 2005.

Despite a global economic downturn in 2001-2, Vietnam's real GDP growth in 2001 was 6.8 per cent and 7.0 per cent in 2002. The IMF has estimated that Severe Acquired Respiratory Syndrome (SARS) – a disease first brought under control by Vietnam, earning it a commendation from the World Health Organisation - will only inhibit growth by around 0.25% in 2003. Credit for these impressive growth figures can be given to two important economic drivers - rising exports and domestic demand. A third driver, foreign direct investment, complements both of the current economic drivers and should lead to the stimulation of yet higher growth rates over the coming years.

Partly as a result of these reforms, GDP per capita increased from US\$136 in 1990 to US\$442 in 2002, the fiscal deficit fell from 7.2 per cent of GDP in 1990 to 3.9 per cent of GDP in 2002, exports increased from 26.7 per

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## **THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE**

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cent of GDP in 1990 to 46.9 per cent of GDP in 2002 and annual inflation fell from 67.1 per cent in 1990 to 4.0 per cent in 2002. Vietnam now has one of the fastest growing economies in the world. Real GDP based on constant 1994 prices increased from VND132.0 trillion in 1990 to VND313.3 trillion in 2002.

The impact of rapid economic expansion is often best demonstrated through its effect on consumer prices, and the ability to react to such pressures provides a good indication of the quality of a country's macroeconomic management. Inflation for the years 1992-95 averaged 12.5 per cent as the Government began to adjust to the flood of foreign capital which followed its decision to loosen control of the economy. Thereafter, assisted by the weakness of global commodity prices on the basket of goods and services on which Vietnam's Consumer Price Index ("CPI") is based, the country enjoyed a couple of years of relatively mild increases (4.5 per cent in 1996 and 3.6 per cent in 1997) before the beginning of the Asian financial crisis, with currency adjustments precipitating a spike in 1998 inflation to 9.2 per cent. The consequent regional deflation saw three years of low inflation (1999-2001 CPI up 0.1 per cent, down 0.6 per cent and up 0.8 per cent respectively). 2002 inflation was reported at 4.0 per cent and is estimated to reach about 5.0 per cent in 2003 due, in part, to an expected recovery in commodity prices. It should be noted, however, that with local 12-month T-bills offering coupons around 6.2 per cent and 5-year bonds at about 8.6 per cent, real interest rates are still positive and inflation is relatively restrained in view of the booming economic environment.

### **Rising Exports and the Trade Balance**

Vietnam now produces and exports a wide range of primary commodities and manufactured goods, including oil and gas, rice, coffee, seafood, garments, footwear, electronics, handicrafts and pharmaceuticals. Tourism, telecommunications, construction, infrastructure development, trade, transportation, finance and other services are increasingly contributing to the growth of the Vietnamese economy.

Export growth, which was negative in the first six months of 2002, revived in the third quarter of 2002 and is now flourishing once again as Vietnam's increased global integration impacts on the economy. Exports in 2002 reached US\$ 16.5 billion, up 10.0 per cent on 2001, and were 27.5% higher for the first eight months of 2003 than for the same period of 2002. One of the main causes for this surge in export growth was that the USBTA came into effect in late 2001. Overall, exports to the USA are estimated to have risen by 110 per cent in 2002. This diversification reduces Vietnam's historical reliance on trade with other Asian countries.

Another boost came from the announcement in late September 2002 that the EU had increased its garment import quotas from Vietnam by 25 per cent. In 2002, the value of total garment exports grew by 37.2 per cent and footwear exports by 17.2 per cent. Vietnam's 2002 exports of clothing and fabrics to the U.S.A. were valued at \$952 million, which was a 19-fold increase from the previous year's (pre-USBTA) figure. More recently, the U.S. and Vietnam signed a Textile Agreement (April 2003) which limits Vietnam's clothing exports to the United States to US\$ 1.7 billion for 2003, with fixed volume increases annually thereafter while the agreement remains in effect.

Amongst Vietnam's exports, crude oil remains the largest foreign currency earner. Average crude export prices during 2002 were a little higher than in 2001, causing a rise in earnings (+ 3.2 per cent). Increasing rice prices have also helped the export figures. The value of rice exports in 2002 was up 16.2 per cent, yet volume was down 13.1 per cent. In addition, seafood export values increased by 13.9 per cent. By contrast, Vietnam's other commodity exports have suffered from a continued decline in global commodity prices. Yet as Vietnam continues on its course towards greater global integration, the country's exporters are being offered a broader choice of destinations – a development that is likely to prove increasingly attractive to many local and foreign manufacturers.

Imports for 2002 reached US\$ 19.3 billion, a year on year rise of 19.4 per cent. Both of these figures are somewhat higher than the corresponding export figures. In fact, rising exports are partly to blame. Many exports, such as garments and footwear, have a high import content which helps explain the 80.6 per cent rise in cloth imports and the 25.6 per cent rise in yarn imports during 2002. Another important factor in the increased demand for imported materials has been the implementation of infrastructure projects. The accompanying rise in construction helps explain the 35.0 per cent rise in machinery imports and the 24.4 per cent rise in steel imports during 2002.

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## **THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE**

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The imbalance in trade resulted in a deficit of US\$ 2.8 billion for 2002. The trade deficit in 2002 was 7.9 per cent of GDP, but is manageable. Between 1993 and 1999 the average trade deficit was 10.65 per cent of GDP and foreign currency reserves were significantly lower than the current US\$ 4.6 billion. The government's reaction to the rising trade deficit in the mid-1990s was to introduce tough import controls. It is unlikely that the government will replicate this policy, for the following reasons:

1. The trade deficit in 2002 would have been more than covered by estimated hard currency receipts from:
  - disbursed ODA: US\$ 1.53 billion;
  - disbursed FDI: US\$ 2.35 billion;
  - remittances from the estimated 2.5 million overseas Vietnamese who are foreign nationals: US\$ 2.4 billion through official channels;
  - remittances from the 370,000 Vietnamese nationals working overseas: US\$ 1.45 billion, and;
  - spending by the estimated 2.6 million foreign visitors: estimated at US\$ 0.75 billion (+11.5 per cent over 2001).

This also helps explain why the Dong decreased in value by just 1.94 per cent against the US Dollar during 2002.

2. Vietnam's commitment to implementing the Common Effective Preferential Tariff ("CEPT") scheme for the realisation of AFTA reduces the scope for utilising import controls. Under a Government plan for compliance with AFTA, virtually all tariffs on imports from ASEAN members will be reduced to 20 per cent in 2003 and to between zero and 5 per cent by early 2006.

3. Vietnam's obligations under the USBTA and its agreement with the IMF require it to phase out quantitative restrictions. If it does not do so, there will likely be scant support for its aims to join the WTO in 2005.

### **Domestic Demand**

Domestic demand is strong and rising, due in part to the Government's fiscal stimulus through its continued investment in infrastructure projects but also, and more importantly, to the private sector reforms which have led to a significant rise in the number of new private enterprises over the last 3 years.

#### **a) Public Spending**

Total State expenditure for 2002 was estimated by the National Assembly's Economic and Budget Committee to have totalled VND144 trillion (US\$9.5 billion), up 25 per cent on the previous year. This figure includes increased funding of infrastructure projects, particularly the construction of the north-south highway and several power generation projects.

The same Committee estimated that State budget revenue for 2002 was VND123 trillion (US\$ 8.1 billion). The budget deficit of around VND21 trillion (US\$ 1.4 billion) is around 3.9 per cent of GDP, well within the Government's self-imposed ceiling of 5 per cent.

The Government's fiscal stimulus has been supported by sustained ODA disbursements, which reached US\$1.53 billion in 2002 (2001: \$1.36 billion). The UNDP estimate that 42 per cent of ODA disbursements during 2002 were allocated to infrastructure projects. Much of Vietnam's external debt, estimated at around US\$ 13 billion, is made up of ODA and thus results in a lower debt service burden. Strong ODA support looks set to continue. In December 2002, international donors promised an additional US\$2.5 billion in ODA for Vietnam for 2003, a 4.5 per cent increase on pledges made in December 2001. It is expected that 50 per cent of ODA will be disbursed for energy, industry, transportation, telecommunications and urban water supply projects during 2003.

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## THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE

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### b) Private Sector

The catalyst for the expansion of the private sector was the introduction in 2000 of the new Enterprise Law, one of the government's most successful recent reforms. This created a modern legal regime for the establishment and operation of private enterprises. The Enterprise Law governs the organisation and operation of domestic private sector enterprises and the rights and obligations of their investors. One of the principal changes introduced by the Enterprise Law was the establishment of companies upon mere registration rather than by discretionary government licensing. This has reduced the costs of, and the bureaucratic impediments to, establishing private companies, and has resulted in the creation of a significant number of new businesses. Minimum capital requirements for private enterprises other than financial institutions have been eliminated. This new legislation effectively lit the fuse that caused a private enterprise growth explosion. Further support was provided when the government opened up many sectors previously closed to private business, established the Vietnam Stock Exchange (2000), amended the Constitution so that the private sector was given equal status to that of the state (2001) and allowed communist party members to own shares in private businesses (2002). As a result, many thousands of Vietnamese became entrepreneurs and their numbers continue to swell today.

Between 1989 and 1999 around 35,577 private businesses were established. By the end of 2002 this figure had risen to almost 93,000 (14,400 of which were established in 2000, 21,000 in 2001 and 22,000 during 2002). These newly-established enterprises have invested around US\$5.6 billion over the past three years and created 1.75 million new jobs.

The private sector is gradually gaining greater access to finance. Dong lending interest rate caps were removed in 2002 and the rules for unsecured lending have recently been relaxed. Lending to the private sector increased from 55 per cent of the economy's total outstanding loans in 2000 to 58 per cent in 2001 and 62 per cent by the end of 2002. The increased access to credit from banks and, potentially, capital from the stock market should help Vietnam's private sector to continue to flourish in the coming years.

The impact of private sector reforms shows through in Vietnam's industrial production figures. The private sector industrial production growth rate reached 19.2 per cent in 2002; the overall 2002 industrial production growth rate was 14.5 per cent. Excluding the foreign invested sector, the private sector's share of total industrial output in 1995 was 32.9 per cent, and this had risen to 38.0 per cent by the end of 2002.

In the absence of external shocks, from many of which Vietnam is still to some extent insulated, the growth of the nascent private sector could lead into a long-term virtuous circle of increased wealth, increased demand and increased production. Domestic demand appears likely to remain robust. In 2002 automobiles (+ 35.9 per cent), motorbikes (+ 24.4 per cent) and televisions (+ 39.2 per cent) all experienced higher production, which indicates that demand from both businesses and consumers is strong. The increase in the production of bricks (+ 13.0 per cent), cement (+ 25.8 per cent), tiles (+ 36.7 per cent) and transformers (+ 19.2 per cent) reveals buoyant construction and infrastructure sectors. The generation of electricity was up a healthy 16.0 per cent, again pointing to solid increases in business activity within the economy.

### **Foreign Direct Investment**

New FDI commitments in Vietnam declined from a peak of US\$8.5 billion in 1996 to US\$1.6 billion in 1999, largely due to the effects of the Asian economic crisis. While new FDI commitments rebounded in 2000 to US\$2.0 billion and to US\$2.5 billion in 2001 - due in part to amendments to the Foreign Investment Law in 2000 - further improvements will depend significantly upon the timing and extent of structural and economic reforms and the global economic position, among other factors. Preliminary Government figures indicate that new licensed capital of FIEs was only US\$1.4 billion in 2002. This suggests that although foreign investors' views towards Vietnam are generally improving, they were somewhat dulled during 2002 by the caution that pervaded global sentiment.

However, 2002's figures for new FDI should be analysed alongside those for additional FDI. Additional investments made by foreign investors already operating in Vietnam increased by over 58.7 per cent to US\$ 919 million. This is not only a sign of successful prior foreign investment in Vietnam but also an indication that existing foreign investors, who are privy to early signs of growth on the ground, are expecting a rise in demand.

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## **THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE**

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Furthermore, actual FDI disbursements reveal a similar trend. The 2002 figure reached US\$ 2.34 billion, a small increase over the previous year. This is perhaps an indication that foreign investors who have an established entry option into Vietnam in the form of dormant investment licenses and who therefore keep a close eye on events in the country, are now more willing to exercise their options.

Other improvements made recently have included reducing the cost of telecommunications, power and freight transport; narrowing the gaps in the dual pricing system; opening up a greater number of sectors to foreign investment; reducing red tape and thus speeding up licensing procedures; and offering attractive incentives to investors in high-tech projects. Vietnam allows 100 per cent foreign ownership of companies established under the Foreign Investment Law.

### **Conclusion**

As Vietnam's reforms and international integration have progressed, foreign investors, noting Vietnam's political stability, have begun to take a second look at Vietnam. The most notable reforms have been those that have enhanced the private sector, increased global integration and promoted younger, more reform-oriented politicians to positions of power. In addition, many of the grievances previously aired by foreign investors in the mid- and late-1990s have been or are in the process of being tackled by a government keen to reap the benefits of its astute macroeconomic management. In short, the Government has reacted well to the challenges imposed by the transition from a planned to a market economy, and all indications are that it will continue to allow the economy to develop in such ways as are necessary to achieve the socialist-oriented market economy required by the new amendments to the country's Constitution, while at the same time preserving political stability.

### **OVERVIEW OF THE VIETNAM STOCK EXCHANGE**

Trading on the Vietnam Stock Exchange first started in 2000, though the regulator was established in 1996. The market rose sharply into 2001, and since then has declined. The underlying figures and trends discussed in this section explain the potential that now exists for growth in the Vietnam Stock Exchange.

The regulator, the SSC, was established in 1996 and is responsible, among other things, for the provision and enforcement of detailed implementing regulations on the organisation and operations of the Vietnam Stock Exchange and for the development of the securities market.

The Vietnam Stock Exchange opened in July 2000 with two listed stocks and a market capitalisation of US\$ 31.5 million. The Vietnam Index (VNI) was introduced at the end of the first day's trading with a base of 100. From the beginning, the Vietnam Stock Exchange was established in accordance with the highest international structural standards and operates a screen-based, automated order-matching system (AMOS) with centralised settlement and a scripless depository. Orders in up to 9,900 shares are traded via AMOS and, when bids and offers are matched at the end of the trading session, determine the closing price of each stock. Block orders of 10,000 or more shares are traded via the Put Through Trading System (PTTS). Daily share price movements are currently subject to a 5 per cent limit in either direction, except on a stock's first day of trading, when there is no limit. Settlement is on a T+3 basis at the Vietnam Stock Exchange-operated central securities depository, with cash settlement by the Bank for Investment and Development, a state-owned bank. All shares are priced in Dong and have a par value of 10,000 Dong. The VNI is a simple capitalisation-weighted index comprising the issued shares of every Listed Company, currently numbering 21. From its base at the end of July 2000 the VNI rose to 206.83 at the end of that year with 5 listed stocks and market capitalisation of US\$69.4 million. The VNI continued to rise into 2001, in spite of various attempts by the exchange to restrain investor exuberance. It peaked on 25 June 2001 at 571.04 with a market average P/E ratio of 36. The Vietnam Stock Exchange, having widened the daily trading band from 2 per cent to 7 per cent in mid-June, then announced that it was considering a 3 to 6 month minimum holding period and introduced daily turnover limits restricting investors to trading a maximum of 2,000 shares per stock, a measure that was swiftly rescinded, but the damage had been done. The Vietnam Stock Exchange had no local institutional participation, and negligible foreign institutional participation, and local retail investors took fright at the potential removal of liquidity. They turned their attention instead to the Vietnamese property market, with the result that the VNI came back down to the previous year's closing level faster than it had risen from there. Turnover, which had reached a daily average of US\$814,000 in June 2001 dropped significantly. Average daily turnover for the whole of 2001 was US\$431,500 and interest continued to decline through 2002. At the end of August 2003 the index level

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## THE VIETNAMESE ECONOMY AND THE VIETNAM STOCK EXCHANGE

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was 142.71, representing total market capitalisation of US\$ 130 million. The weighted average market P/E ratio at that date had declined to 5.6, with an estimated market yield of 9.3 per cent based on 2003 earnings and dividend forecasts.

In spite of the diminishing investor interest, the Government has continued to encourage companies to list. There are temporary tax incentives for domestic securities and fund management companies, a 50 per cent reduction in tax for two years for companies that list on the Vietnam Stock Exchange and a tax exemption for realised capital gains. The Government intends to expand listing eligibility requirements and ultimately to allow the listing of FIEs. The pool of companies which could list is growing rapidly. There are now 1,070 SOEs that have been equitised (privatised), and over 90,000 private companies had been established by the end of 2002. A number of medium-sized SOEs, including Vinamilk, have recently either been granted approval or announced plans to equitise, and the conditions for listing the privately-owned joint stock commercial banks have been announced. The addition of Asia Commercial Bank and SACOM Bank to the Vietnam Stock Exchange (both of which might possibly list during the final quarter of 2003) would probably increase total capitalisation at market average P/E valuations by almost two-thirds. Further incentives including extended tax holidays on listing may be offered, and retail investor liquidity may be promoted by the reduction of the minimum lot size from 100 to 10 shares. Furthermore, the investor base will be broadened when domestic investment funds are authorised, which appears likely to happen in the near future. The insurance companies, whose resources are estimated to reach US\$750 million of investible premia by the year-end, await the expansion of the capitalisation of the Vietnam Stock Exchange as a pre-condition of large-scale involvement, but are not otherwise prevented from participating.

Foreign investors are also beginning to be encouraged to participate in the Vietnam Stock Exchange. The previous 20 per cent total foreign shareholding limit per stock was increased to 30 per cent with effect from 1 August 2003. Restrictions should be further eased as the provisions of the USBTA come into effect thereafter.

In an attempt to ensure the success of the Vietnam Stock Exchange over the longer term, the SSC, in conjunction with the Asian Development Bank, has formulated a development strategy, which recently received Prime Ministerial endorsement. Assuming that the plan is successfully implemented, the Vietnam Stock Exchange will have 100 companies listed in Ho Chi Minh City and a similar number in Hanoi by the end of 2005, providing a total market capitalisation of between 2 and 3 per cent of GDP. At compounded current annual growth rates of 7 per cent, total GDP will exceed US\$43 billion at that time, implying a target market size of around US\$1 billion. The second stage of development targets five and seven-fold increases in the number of stocks listed in Ho Chi Minh City and Hanoi respectively from 2006 to 2010, with total capitalisation at between 10 and 15 per cent of GDP, which is projected to exceed US\$60 billion by that date.

In conclusion, the Vietnamese Stock Exchange, although structurally sound, has not to date proven a successful venture, largely due to a combination of its diminutive size, lack of liquidity and very narrow investor base. Sectoral breadth is reasonable in view of the limited number of stocks, with telecommunications, transportation, food processing, garments and construction among those represented, but the absence of larger-capitalised companies, in particular financial institutions, is a disadvantage. The relevant authorities are addressing these issues in a pragmatic manner. A blueprint of broad regulatory measures aimed at solving the issues has been approved by the Prime Minister. Despite foreign shareholding limits, there is good potential for strong growth in the Vietnam Stock Exchange over the next 5 years.

**No assurance can be given that the positive economic, social and political developments in Vietnam referred to in this Placing Memorandum, including in the above Vietnamese Economy and Vietnam Stock Exchange section of it, will continue nor that they will be adequate for the Company's purposes. If they do not continue, this may cause adverse economic, social or political consequences in Vietnam which may for a protracted period of time make satisfactory investments in Vietnam difficult or impossible to achieve.**

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## INFORMATION RELATING TO THE SHARES

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### INFORMATION RELATING TO THE SHARES

#### SHARE CAPITAL

The authorised share capital of the Company is US\$600,000 divided into 12,000,000 ordinary shares of a nominal or par value of US\$0.05 each, respectively having attached thereto the rights set out in the Articles of Association.

#### RIGHTS ATTACHING TO THE SHARES

The Shares constitute the only class of shares in the Company. All Shares have the same rights, whether in regard to voting, dividends, return of share capital and otherwise.

- (i) Voting rights: At a general meeting on a show of hands every Shareholder of record present in person (or, in the case of a Shareholder being a corporation by its duly authorised representative) shall have one vote and on a poll every Shareholder of record present in person (or, in the case of a Shareholder being a corporation by its duly authorised representative) or by proxy shall have one vote for each Share registered in his name in the Register.
- (j) Dividend rights: Each Shareholder has equal rights to dividends. See “Income Distributions” and “Capital Distributions” at page 41 below.
- (k) Winding up rights: In a winding up, the Shares carry a right to a return of the nominal capital paid up in respect of such Shares, and the right to share in the surplus assets. See “Supplementary Information about the Company – Winding up” at page 49 below.

#### LISTING OF THE SHARES

Application has been made to The Irish Stock Exchange for all of the Shares issued or available for issue to be admitted to the Official List of The Irish Stock Exchange. It is expected that that listing will become effective one week after the Issue.

Subject to satisfaction of the conditions of the Placing, dealings in Shares are expected to commence a week after the Closing Date.

No application has been made for the Shares to be listed on any other stock exchange.

In connection with any proposed application for listing of the Shares on any other stock exchange in the future, the Board may, subject to all applicable laws and the requirements of all relevant authorities (including, but not limited to, those of The Irish Stock Exchange), seek to make changes to the structure of the Company, its policies and any other matters described in this Placing Memorandum.

#### FURTHER ISSUE OF SHARES

If the Company has issued less than the entire 12,000,000 authorised Shares in respect of subscriptions received by the Closing Date and the Extended Closing Date, if any, the Board has the authority to issue any of such authorised but unissued Shares in one or more subsequent transactions at its discretion. The Board does not have the authority to issue any Shares in excess of the 12,000,000 authorised Shares of the Company. It is the intention of the Directors that any offer of Shares after the Extended Closing Date would first be made to Shareholders existing at the time of such offering on a pre-emptive basis. The Company’s intention is to give such Shareholders prior notice of the number of Shares to be offered and the proposed subscription price. The Shareholders would then have fourteen days after the issue of such notice to accept the offer in proportion to their existing shareholdings in the Company. After the end of that fourteen day period, the Company may then offer such Shares as have not been accepted by the Shareholders to other potential investors. The Company may not offer such additional Shares at a price per Share lower than the Net Asset Value per Share at the time of such offer or to any offeree in circumstances that would be prohibited by applicable law or to any offeree whose holding of Shares after purchasing the Shares being offered would, in the conclusive determination of the Board, cause or be likely to cause a pecuniary, tax, legal, regulatory or material administrative disadvantage to the

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## INFORMATION RELATING TO THE SHARES

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Company or its Shareholders as a whole in any jurisdiction.

### DETERMINATION OF NET ASSET VALUES

The Net Asset Value and the Net Asset Value per Share shall be determined by the Administrator in accordance with the Articles as at the close of business in the last relevant market to close on each Valuation Day. The Net Asset Value per Share shall be determined by dividing the Net Asset Value by the number of Shares issued and outstanding at the time and rounding up to three decimal places.

The Auditors will audit the financial statements and the Net Asset Value on an annual basis. The Company's financial year end is 30 September in each calendar year.

All valuations of assets and liabilities of the Company will be made in US dollars. However, all or most of the profits and gains accruing to the Company are likely to be in Dong and, for valuation purposes, the Company will use such exchange rate as the Company determines would best reflect the exchange rate that would be obtained by the Company on the relevant Valuation Day having regard, inter alia, to any premium or discount which the Directors consider may be relevant and to any costs of exchange. The realisable value in US dollars of any asset may vary, and the real cost in US dollars of any liability may differ, from that reflected in any valuation so made.

Unless otherwise decided by the Board, the value of the Company's assets shall be determined in accordance with International Accounting Standards, as applicable to the Company. To the extent that International Accounting Standards permit, the Company will value its assets in accordance with the following provisions:

- (a) Listed securities will be valued at their last traded prices at the last official close of the Vietnam Stock Exchange on the relevant Valuation Day. There is no assurance that the last traded price will fairly reflect the price that would be achieved by the Company.
- (b) Unlisted bonds, debentures and financial notes, if any, will be valued at cost plus interest accrued, but unpaid, from purchase up to (but excluding) the Valuation Day unless in any case the same is unlikely to be paid or received in full, in which case the value thereof shall be arrived at after making such discount as the Directors may consider appropriate in such case to reflect the true value thereof.
- (c) Investments in Pre-Listing Companies for which an active "over-the-counter" market exists will be stated at fair value based upon price quotations received from at least two independent brokers.
- (d) Other unlisted shares in Vietnamese companies will be valued at fair value as determined by the Directors in accordance with International Accounting Standards.

The liabilities of the Company will be deemed to include, among other things, such provisions and allowances for contingencies as the Board may from time to time consider appropriate and in accordance with International Accounting Standards.

For the purpose of ascertaining quoted, listed, traded or market dealing prices, the Directors (or any person to whom they have delegated responsibility for calculating the Net Asset Value) shall be entitled to use and rely upon mechanised and/or electronic systems of valuation dissemination with regard to valuation of investments of the Company and the prices provided by any such system shall be deemed to be the last traded prices for the purpose of paragraph (a) above.

The Net Asset Value and the Net Asset Value per Share as at each Valuation Day will be determined by the Administrator in accordance with the Articles and with information supplied to it by or on behalf of the Company, and will be available from the Investment Manager as soon as possible after each Valuation Day which will normally be at the latest within six weeks thereafter. The Net Asset Value and the Net Asset Value per Share will be notified by the Investment Manager to The Irish Stock Exchange immediately upon calculation.

The Investment Manager will immediately notify The Irish Stock Exchange if there is any suspension in the calculation of the Net Asset Value. Where possible, all reasonable steps will be taken to bring any period of

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## **INFORMATION RELATING TO THE SHARES**

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suspension to an end as soon as possible. The circumstances in which there may be a suspension in the calculation of the Net Asset Value are set out in “Temporary suspension of valuation” on page 48 below.

### **TRANSFERS OF SHARES**

The instrument of transfer of any Shares shall be in the usual common form or in any other form which the Board may approve, which instrument of transfer shall be signed by the transferor and the transferee, and the transferor shall be deemed to remain the holder of the Shares until the name of the transferee is entered in the register in respect thereof.

Each Shareholder which wishes to transfer its Shares will have to obtain a certificate from the purchaser or transferee of Shares. The certificate will be in the form of the Application Form and the supplemental disclosures applicable to U.S. Persons or non-U.S. Persons, as the case may be, modified in such manner as may be acceptable to the Company. The Company may decline to register the transfer if such documents are not given.

All transfers and other documents of title relating to any Shares must be lodged for registration with the Administrator. The Company may decline to register any transfer of Shares to a person whose holding of Shares would, in the conclusive determination of the Board, cause or be likely to cause a pecuniary, tax, legal, regulatory or material administrative disadvantage to the Company or its Shareholders as a whole in any jurisdiction. The Company may decline to register the transfer where the transfer would result in the transferee holding Shares with a value of less than US\$100,000.

The registration of transfers may be restricted in the circumstances as set out in the section entitled “Compulsory transfer and restrictions on transfer” on page 44 below.

### **COMPULSORY TRANSFER OR REDEMPTION OF SHARES**

The Company may require the transfer of any Shares and compulsorily redeem or require the transfer of any Shares in issue if, in the conclusive determination of the Board, they are being held by any person whose holding of those Shares would, or is likely to, cause a pecuniary, tax, legal, regulatory or material administrative disadvantage to the Company or its Shareholders as a whole, as summarised in the section headed “Articles of Association” on pages 44 to 49 below.

### **INCOME DISTRIBUTIONS**

The Board may from time to time declare any such dividends to the holders of Shares as appear to the Board to be appropriate and as are in accordance with the policy of The Irish Stock Exchange. No dividend may be declared or paid other than from funds lawfully available for distribution including share premium. The Company’s income from investments will be applied first to pay the fees and other expenses of the Company. See “Fees and Expenses” at page 25. The Company expects that its net income (excluding capital gains), if any, after paying such fees and expenses, will be distributed to Shareholders annually, subject to retention of sufficient funds to meet anticipated fees and other expenses and subject to the ability to convert Dong income into foreign currency for purposes of paying such dividends.

Any dividends unclaimed after a period of six years after having been declared shall be forfeited and revert to the Company.

No dividend payable by the Company on or in respect of any Share will bear interest against the Company.

The Board may direct payment or satisfaction of any dividend wholly or in part by the distribution of specific assets, and in particular of paid up shares of any Investee Company.

### **CAPITAL DISTRIBUTIONS**

The Company’s general intention is to reinvest the capital received on the sale of investments. However, the Board may from time to time, in its discretion, either use the proceeds of sales of investments to meet the Company’s expenses or distribute them to Shareholders. Alternatively, the Board may offer to redeem Shares with such

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## **INFORMATION RELATING TO THE SHARES**

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proceeds upon not less than 30 calendar days' notice to Shareholders (subject always to applicable law). The method of calculation of the redemption price of Shares is set out in the Articles and is summarised under the heading "Redemptions" on page 48 below.

Payment of the redemption price for Shares will normally be made in US dollars within 30 calendar days after the effective date of the redemption. However, the Company may not be able to convert Dong revenues into US dollars for distribution at any specific time, and even if it succeeds in such conversion, it may not be able to remit them outside Vietnam at any specific time.

Holders of Shares have no right to require their Shares to be redeemed by the Company.

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## **SUPPLEMENTARY INFORMATION ABOUT THE COMPANY**

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### **SUPPLEMENTARY INFORMATION ABOUT THE COMPANY**

#### **ESTABLISHMENT**

The Company was incorporated on 7 May 2003 under the Companies Law, Cap. 22 (Revised), of the Cayman Islands as an exempted company with limited liability and its registration number with the Registrar of Companies in the Cayman Islands is CR-125492. Since the date of incorporation the Company has not commenced business, has not prepared any financial statements or accounts and has no loan capital (including term loans) outstanding or created but unissued, nor any outstanding mortgages, charges or other borrowings or indebtedness in the nature of borrowing, including bank overdrafts and liabilities under acceptances or acceptance credits, hire purchase commitments, guarantees or other contingent liabilities, and no dividends have been declared.

No Shares have been issued except for one Share which has been issued to the Investment Manager. However, pursuant to the Deed of Waiver, the Investment Manager has irrevocably waived any and all rights and benefits attached to such Share, including, but not limited to, the right to receive notice of, attend and vote at general meetings of the Company, the right to participate pro rata in dividends or other distributions declared and paid by the Company and the right to participate pro rata in the distribution of assets on the winding-up of the Company, during any period in which any other shares in the capital of the Company are in issue.

The Shares contemplated by this Placing will be issued pursuant to resolutions of the Board passed on 30 May 2003 and 18 December 2003. None of the Shares of the Company are under option or agreed conditionally or unconditionally to be put under option.

#### **DURATION OF THE COMPANY**

The Company has been established for an unlimited duration. However, the Articles require the Company to put before its Annual General Meeting in 2008, a Special Resolution to wind up the Company effective 30 September 2008. If the Shareholders do not decide, by Special Resolution, to wind up the Company effective 30 September 2008, the Company will continue to operate until 30 September 2010.

#### **FINANCIAL STATEMENTS AND REPORTS**

The Company's year-end is 30 September and audited financial statements will be sent to The Irish Stock Exchange and each Shareholder within six months of the end of the relevant financial year. The Company will also send half-yearly unaudited interim reports to The Irish Stock Exchange and each Shareholder within four months of the end of the relevant half-year. All statements will be in English.

#### **DIRECTORS' INTERESTS**

There are no service contracts in existence between the Company and any of its Directors, nor are any such contracts proposed.

There are no contracts in relation to the Company's business in which a Director of the Company has a material interest, whether directly or indirectly.

No Director has any interest, direct or indirect, in the promotion of, or in any assets which have been or are proposed to be acquired or disposed of by, or leased to, the Company and no Director is materially interested in any contract or arrangement subsisting at the date hereof which is unusual in its nature or condition or which is significant in relation to the business of the Company. One Director has ownership interests in various Listed Companies and potential Pre-Listing Companies, but the Company has neither made any proposal to buy shares in such Listed Companies or potential Pre-Listing Companies or any decision to make any such proposal in the future.

No Director has (i) any unspent convictions; or (ii) been bankrupt or the subject of an involuntary arrangement, or has had a receiver appointed to any of his assets; or (iii) been a director of any company which, while he was a director with an executive function or within 12 months after he ceased to be a director with an executive function, had a receiver appointed or went into compulsory liquidation, creditors' voluntary liquidation, administration or company voluntary arrangements, or made any composition or arrangement with its creditors generally or with any class of its creditors; or (iv) been a partner of any partnership, which while he was a partner or within 12 months

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## SUPPLEMENTARY INFORMATION ABOUT THE COMPANY

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after he ceased to be a partner, went into compulsory liquidation, administration or partnership voluntary arrangement, or had a receiver appointed to any partnership asset; or (v) had any public criticism by statutory or regulatory authorities (including recognised professional bodies); or (vi) been disqualified by a court from acting as a director or from acting in the management or conduct of affairs of any company.

### CONSTITUTION

The Memorandum and Articles of Association of the Company comprise its constitution. The following summary is not exhaustive. These documents are available for inspection during the period and at each of the addresses specified in the section on page 53 below headed “Documents Available for Inspection”.

#### Memorandum of Association

Clause 3 of the Memorandum of Association of the Company provides that the Company’s objects are unrestricted (except as prohibited by law), but, without limiting the foregoing, the principal objects of the Company include, inter alia, to carry on business as an investment holding company and to buy, sell and deal in, acquire, invest in and hold by way of investment interests in development projects wheresoever located, bonds, obligations, certificates of deposit, treasury bills, trade bills, bank acceptances, bills of exchange, monetary instruments, currency, shares, stocks, debentures, debenture stock, financial futures contracts, warrants, options of all kinds and securities of all kinds, created, issued or guaranteed by any government, sovereign ruler, commissioners, public body or authority, supreme, municipal, local or otherwise, in any part of the world, or by any company, organisation, bank, association or partnership, whether with limited or unlimited liability, constituted or carrying on business in any part of the world, units of participation in any unit trust scheme, mutual fund or collective investment scheme in any part of the world, policies of assurance, and any rights and interests to or in any of the foregoing (whether issued or to be issued), and from time to time to sell, deal in, vary or dispose of any of the foregoing.

#### Articles of Association

The Articles contain, amongst other things, provisions to the following effect:

(a) **Alterations of capital**

- (i) The Company may by Ordinary Resolution (unless an amendment to the Memorandum of Association is required, in which case a Special Resolution will be required) increase its share capital, consolidate or divide all or any of its share capital into Shares of a larger amount, cancel any Shares not taken by any person, sub-divide its Shares or any of them into Shares of a smaller amount or divide its Shares into different classes with different rights, including as to dividends, distributions or voting.
- (ii) Subject to the provisions of the laws of the Cayman Islands, the Company may by Special Resolution reduce its share capital, any capital redemption reserve fund or any share premium account.

(b) **Transfer of Shares**

Shares may be transferred by a form of transfer in any usual or common form or in any other form which the Board may approve, which form shall be signed by the transferor and the transferee, and the transferor is deemed to remain the holder of a Share until the name of the transferee is entered in the register in respect of that Share. The Board is not required to register transfers of Shares which do not comply with certain formalities.

(c) **Compulsory transfer and restrictions on transfer**

- (i) The Directors have the power to impose such restrictions (including restrictions on transfers) as they may think necessary for the purpose of ensuring that no Shares in the Company are acquired or held by any unauthorised persons, or in breach of, or in any way which will lead to the

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## SUPPLEMENTARY INFORMATION ABOUT THE COMPANY

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imposition of, the requirements of any country or governmental authority. In particular, without the specific consent of the Board, Shares may not be transferred to U.S. Persons which may result in more than 10 per cent of the Company's issued share capital being held at any one time by a single U.S. Person unless the Board otherwise agrees.

The Board may at its discretion give its consent generally to certain categories of offers, sales or transfers of Shares to specific categories of persons and may impose as a condition of such consents the receipt of certifications from the purchasers or subscribers or transferors or transferees (or any of them) as to their status, and in particular as to whether they are a U.S. Person.

- (ii) The Company has the right to require the transfer of Shares owned directly or indirectly or beneficially by any person (a "Non Qualifying Person") such that, in the opinion of the Board, the tax status or residence of the Company is or may be prejudiced, or the Company may suffer any pecuniary disadvantage (including any excise tax, penalties or liabilities under ERISA), or the Company would be required to comply with any registration, filing or other material administrative requirements in any jurisdiction, with which it would not otherwise be required to comply, or may result in the assets of the Company being deemed to be "plan assets" for the purposes of ERISA, or may require the registration of the Company as an "investment company" under the United States Investment Company Act 1940 ("1940 Act"). The Board may direct the Non Qualifying Person to transfer his Shares to a person who is qualified to hold them and would not by reason of a transfer become non qualifying. Until such transfer is effected, the holder of such Shares will not be entitled to any rights or privileges attaching to such Shares. If the required transfer is not effected within 30 days after service of a notice to do so and the person directed to transfer his Shares has not established to the satisfaction of the Board (whose judgement shall be final and binding) that he is not a Non Qualifying Person the Shares concerned may be compulsorily redeemed or sold by the Company on behalf of the holder of such Shares. The redemption or sale price will be the Net Asset Value per share as at the Valuation Day last preceding the date of transfer or redemption (as the case may be).
  - (iii) In order to give effect to the foregoing restrictions, the Company may, at any time, require certification or other evidence from any transferee of Shares as to whether such transferee is or is not (or is or is not acquiring the Shares for the account or benefit of) (a) a U.S. Person, or (b) a person holding Shares (or other securities of the Company) comprising 10 per cent or more of the outstanding voting securities of the Company in circumstances where the beneficial ownership of such Shares or securities could be attributed to the holders of that person's outstanding securities under the provisions of Section 3(c)(1)(A) of the 1940 Act, or (c) acquiring the Shares with a view to offering or selling such Shares within the United States or to U.S. Persons.
  - (iv) A person who, by reason of any restriction is not qualified to acquire or ceases to be qualified to hold all or any of his Shares or whose holding will, or is likely to, cause a pecuniary, tax, legal, regulatory or material administrative disadvantage to the Company or to Shareholders as a whole, must transfer such Shares to a person who is not prohibited or otherwise disqualified from holding such Shares.
  - (v) The Company may at any time and from time to time call upon any holder of Shares to provide such information and evidence as it shall require upon any matter connected with, or in relation to, such holder of Shares. If such information and evidence is not provided within fourteen days, the Company may apply the transfer provisions applicable to a Non Qualifying Person.
- (d) **Directors**
- (i) The number of Directors may not be less than two or exceed six and they are appointed as follows:
    - (A) Four Directors have been appointed by the initial Shareholder. These Directors shall serve in office until the next occurring annual general meeting of the Company. Each of

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## SUPPLEMENTARY INFORMATION ABOUT THE COMPANY

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the Directors may submit himself for re-election at the next occurring annual general meeting of the Company. The re-elected Director or his replacement will hold office until the next annual general meeting of the Company. If a Director resigns prior to any annual general meeting, the remaining Directors may appoint a replacement to serve until the next annual general meeting.

- (B) In addition, the Board shall be entitled to appoint and remove two additional independent, non-executive Directors on the recommendation of two Shareholders who hold large numbers of shares, as determined by the Board.
  - (C) All Directors shall have the same right to vote at meetings of the Board. Questions arising at any meeting will be decided by a majority of votes of the Directors present at a meeting at which there is a quorum. In case of an equality of votes, the Chairman shall have a second or casting vote.
- (ii) There is no shareholding qualification for Directors. Nor is there any requirement that a Director retire at any particular age.
  - (iii) The quorum necessary for the transaction of the business of the Board may be fixed by the Board and unless so fixed shall be two. An alternate Director or proxy appointed by a Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.
  - (iv) The remuneration of each Director is determined by the Board, subject to a maximum aggregate amount of US\$50,000 per annum being paid to the members of the Board. The Directors may also be paid all reasonable travelling, hotel and other expenses properly incurred by them in going to, attending and returning from meetings of the Board or any committee of the Board or general meetings of the Company or in connection with the performance of their duties as Directors. Subject to the maximum aggregate amount set out above, there is no requirement that the remuneration (including pension and other benefits) payable to each Director be approved by an independent quorum.
  - (v) Save as otherwise provided by the Articles, a Director is not entitled to vote on (and he will not be counted in the quorum in relation to) any resolution of the Board in respect of any contract or arrangement in which he is to his knowledge materially interested and, if he does so, his vote will not be counted, but this prohibition does not apply to any of the following matters namely:
    - (1) the giving of any security or indemnity either:
      - (A) to the Director in respect of money lent or obligations incurred or undertaken by him at the request of or for the benefit of the Company or any of its subsidiaries; or
      - (B) to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which the Director has himself assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;
    - (2) any proposal concerning an offer of Shares or debentures or other securities of or by the Company or any other company which the Company may promote or be interested in for subscription or purchase where the Director is or is to be interested as a participant in the underwriting or sub-underwriting of the offer;
    - (3) any proposal concerning any other company in which the Director is interested only, whether directly or indirectly, as an officer or executive or shareholder or in which the Director is beneficially interested in shares of that company;

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- (4) any proposal or arrangement concerning the benefit of employees of the Company or its subsidiaries, including:
  - (A) the adoption, modification or operation of any employees' share scheme or any incentive or share option scheme under which he may benefit; or
  - (B) the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to directors and employees of the Company or any of its subsidiaries and does not provide in respect of any Director as such any privilege or advantage not generally accorded to the class of persons to which such scheme or fund relates; and
- (5) any contract or arrangement in which the Director is interested in the same manner as other holders of Shares or debentures or other securities of the Company by virtue only of his interest in Shares or debentures or other securities of the Company.

The Company may by Ordinary Resolution (i) suspend or relax the above restrictions to any extent or (ii) ratify any transaction not duly authorised by reason of a contravention of the above restrictions.

- (vi) The Board may from time to time and by resolution delegate such of their powers as they consider appropriate to a committee consisting of some of the Directors.
- (vii) Each Director has the power to appoint any person to be his alternate Director.
- (viii) Directors are not required to retire upon attaining any specific age unless otherwise required by applicable law.
- (viii) Every Director and officer for the time being of the Company and their representatives, heirs, executors, administrators, personal representatives or successors or assigns shall, in the absence of fraud, negligence or wilful default, be indemnified and held harmless out of the assets and funds of the Company against all actions, proceedings, costs, charges, expenses, including travelling expenses, losses, damages or liabilities, which any such Director or officer may incur or for which he may become liable in respect of or by reason of any contract entered into or act or thing done by him as such officer or servant, or in any way in discharge of his duties and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the Company and have priority as between the shareholders over all other claims. No such Director or officer shall be liable or answerable (i) for the acts, receipts, neglects, defaults or omissions of any other Director or officer, or (ii) for joining in any receipt for money not received by him personally or other act for conformity, or (iii) for any loss on account of defect of title to any property of the Company, or (iv) on account of the insufficiency of any security in or upon which any of the assets of the Company shall be invested or for any loss of any of the assets of the Company which shall be invested, or (v) for any loss incurred through any bank, broker or other agent, or (vi) for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any assets, securities or effects shall be deposited, or (vii) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on his part, or (viii) for any loss, damage or misfortune whatsoever which may happen in or arise from the execution or discharge of the duties, powers, authorities, or discretions of his office or in relation thereto unless the same happens through his own fraud or wilful default.

### (e) **Borrowing powers**

The Board may exercise all the powers of the Company to raise or borrow or to secure the payment of any sum or sums of money for the purposes of the Company and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party, provided that no borrowing may be incurred which would, if incurred, cause the

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aggregate amount of all moneys borrowed by the Company (including the amount of any loan capital and debentures) which remains outstanding from time to time to exceed an amount representing 25 per cent of the latest available Net Asset Value of the Company at the time of the borrowing unless the Shareholders in general meeting otherwise determine by Ordinary Resolution.

All guarantees or indemnities that expose the Company to a contingent liability in excess of 25 per cent of its latest available Net Asset Value must be signed by two Directors pursuant to a duly authorised resolution of the Board in order to be valid.

**(f) Temporary suspension of valuation**

- (i) The calculation of Net Asset Value is summarised under “Determination of the Net Asset Values” on page 40. The Company is empowered to suspend the calculation of Net Asset Value and may do so in any of the following events:
- (A) when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Company, disposal of investments is not reasonably practicable without materially and adversely affecting and prejudicing the interests of Shareholders, or if, in the opinion of the Directors, a fair price cannot be calculated for a significant number of the assets;
  - (B) when any stock exchange or over-the-counter market on which any significant portion of the investments of the Company is listed, quoted, traded or dealt in is closed (other than customary weekend and holiday closing) or trading on any such stock exchange or market is restricted or suspended;
  - (C) in the case of a breakdown of the means of communication normally used for valuation purposes or if for any reason appropriate valuations cannot be determined as rapidly and accurately as required; or
  - (D) if, as a result of exchange restrictions or other restrictions affecting the transfer of funds, transactions are rendered impracticable, or if purchases, sales, deposits and withdrawals of investment cannot be effected at the normal rates of exchange.
- (ii) The Company also has the right to suspend the calculation of Net Asset Value when, in the opinion of the Board, a significant proportion (which is likely to exceed five per cent) of the assets of the Company cannot be valued on an equitable basis.

**(g) Redemptions**

- (i) Subject to relevant provisions of Cayman Islands’ law and the Articles, the Company may from time to time by not less than 30 calendar days’ notice to the holders of Shares redeem all or any portion of the Shares held by the Shareholders at the redemption price denominated in US dollars and calculated in accordance with paragraph (ii) below (the “Redemption Price”) from any funds legally available therefor, including from capital, on, inter alia, the following terms:
- (A) on any redemption the Company will have the power to divide in kind the whole or any part of the assets of the Company and appropriate such assets in satisfaction or part satisfaction of the Redemption Price;
  - (B) the redemption of Shares will be made in the Company’s absolute discretion, and shall apply to all holders of Shares pro rata to their shareholdings;
  - (C) upon redemption, each holder of Shares who has been issued a share certificate will lodge with the Company or its authorised agent a duly endorsed certificate for the Shares to be redeemed and subject to sub-paragraph (E) below no payment of

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redemption proceeds will be made until such duly endorsed certificate has been received;

- (D) on redemption of part only of the Shares comprised in a certificate (if any has been issued) the Company will procure that a balance certificate in respect of the Shares not redeemed will be sent free of charge to the relevant holder or as that holder shall direct;
- (E) the Company may at its option dispense with the production of any certificate which has been lost or destroyed upon compliance by the holder of Shares with the same requirements as apply in the case of an application by him for replacement of a lost or destroyed certificate under the Articles; and
- (F) any amount payable to a holder of Shares in connection with the redemption of his Shares will be paid in US dollars and will be posted at the holder's risk by or on behalf of the Company to the holder not later than 30 calendar days after the effective date of the redemption, provided that the Company may delay payment of redemption proceeds beyond such period if settlement of sales or other realisation of securities on any stock market is delayed or suspended, or any necessary conversion or transfer of funds is delayed for any reason beyond the control of the Company. Alternatively, redemption proceeds may be paid by distribution in kind of all or part of a Shareholder's pro-rata portion of a portfolio investment made by the Company, where the Shareholder so elects and the Company consider this to be feasible. Any such distribution in kind shall be on terms determined by the Company.

(ii) The Redemption Price for each Share redeemed pursuant to (i) above is calculated by:

- (A) ascertaining the value of the net assets of the Company in US dollars for this purpose under Article 102 of the Articles (summarised above under "Determination of the Net Asset Values" on page 40) as at the most recent Valuation Day;
- (B) deducting therefrom such sum as the Company in its absolute discretion may consider represents an appropriate allowance for duties and charges in relation to the realisation of the investments held by the Company on the relevant Valuation Day on the assumption that such investments had been realised on that Valuation Day;
- (C) adjusting the net asset value determined under paragraphs (a) and (b) above to reflect the actual cost of converting any amount if necessary into US dollars at such rate of exchange as the Company may in its absolute determination consider appropriate in all the circumstances at any time prior to payment of the Redemption Price. The certificate of the Company as to the conversion rate applicable (which may take account of the costs of conversion) will, in the absence of manifest error, be conclusive and binding on all persons;
- (D) dividing the amount so calculated by the number of Shares then in issue; and
- (E) adjusting the resulting sum downwards to the nearest whole cent (the amount necessary to effect such downward adjustment being payable to the Company for its absolute use and benefit).

(iii) Holders of Shares have no right to require their Shares to be redeemed by the Company.

(h) **Winding up**

If the Company is wound up the liquidator may, with the sanction of a Special Resolution of the Company and any other sanction required by the applicable law, divide amongst the Shareholders in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purpose set such value as he deems fair upon any property to be divided as

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aforesaid and may determine how such division shall be carried out as between the Shareholders. The liquidator may with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Shareholder shall be compelled to accept any assets, shares or other securities whereon there is any liability.

### **MATERIAL CONTRACTS**

The following contracts (not being contracts entered into in the ordinary course of business) have been entered into by the Company and are or may be material:

#### **Investment Management Agreement**

The Investment Manager was appointed to provide a continuous investment programme for the Company's assets, including seeking suitable investments for the Company, advising and supporting in relation to the development of investments held by the Company, seeking ways in which the Company might dispose of its investments, and the provision of investment research and advice with respect to all securities and investments and cash equivalents comprised in the Company's assets, and to provide certain other services to the Company under the terms of that agreement.

Subject to the overall control and direction of the Board, the Investment Manager will determine which securities and other investments will be purchased, retained or sold by the Company and will place all sale and purchase orders on behalf of the Company.

In the performance of its obligations under that agreement, the Investment Manager has undertaken to act honestly and in the best interests of the Company, to exercise the care, diligence and skill which a reasonably prudent investment manager would exercise in the circumstances, to comply with the laws and regulations in force from time to time in Vietnam and with the investment objectives, policies and restrictions for the time being and from time to time of the Company as established by the Directors and made known to the Investment Manager, and with the Articles and the requirements of The Irish Stock Exchange, and the Investment Manager is required to have regard to:

- (a) any restrictions for the time being contained in the Placing Memorandum or any subsequent listing particulars or equivalent document; and
- (b) any other matter to which a prudent discretionary investment portfolio manager should reasonably pay regard in the proper discharge of its duties.

Details of the fees payable by the Company to the Investment Manager under the Investment Management Agreement are set out under the heading "Fees and Expenses" on page 25 above of this Placing Memorandum.

The Investment Manager has made no representation or warranty as to the performance of the Company or the success of any investment strategy recommended or used by the Investment Manager.

The Investment Management Agreement contains provisions pursuant to which the Company agrees not to make claims against the Investment Manager or any of its directors, officers, agents or employees, and to indemnify such persons against any claims which may be made against them by third parties and against any costs, losses or expenses which any of them may incur, as a result of, or in connection with the provision by or on behalf of the Investment Manager of services under the Investment Management Agreement, except to the extent that the same is directly attributable to the gross negligence, wilful default or fraud of the Investment Manager or any of its directors, officers, agents or employees.

The Investment Management Agreement may be terminated by the Company, without being required to pay any termination fee to the Investment Manager, by giving notice in writing to the Investment Manager if (i) a petition is presented for the winding up of the Investment Manager (except in respect of a voluntary winding up for the purpose of a reconstruction or amalgamation upon terms previously approved in writing by the Company) and is

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not discharged within 90 days or if a liquidator is appointed in respect of any of the assets of the Investment Manager or any analogous event occurs or action is taken in any jurisdiction other than the Cayman Islands; or (ii) if the Investment Manager has committed any material breach of its obligations under this Agreement and (if such breach shall be capable of remedy) fails within thirty days of receipt of notice requiring it so to do to make good such breach; or (iii) if the Investment Manager is or was fraudulent or grossly negligent in the performance of its duties hereunder and this resulted in a substantial loss being incurred by the Company.

The Investment Manager is entitled to retire (i) on one year's notice, if it can demonstrate that its remuneration for its services through and including the liquidation of the Company are likely to be lower than the expenses required in order to meet the Investment Manager's obligations and 80 per cent of the capital raised on the Closing Date has been invested; or (ii) if the Company commits any material breach of its obligations under the Investment Management Agreement and (if such breach shall be capable of remedy) the Company fails within thirty days of receipt of notice requiring it so to do to make good such breach.

The Company may terminate the appointment of the Investment Manager without cause at any time more than two years after the Company's authorised share capital has been fully subscribed and issued, but not before. Termination may only be effected by written notice attaching a certified copy of a Special Resolution of the Shareholders deciding upon such termination. If such termination without cause is effected, the Company will pay to the Investment Manager a termination fee in an amount equal to six times the average monthly Management Fee that was payable to the Investment Manager during the 12 month period prior to the date the notice of termination was delivered to the Investment Manager.

### **Placing Agreement**

Under the Placing Agreement, the Placing Agent has agreed to use its best efforts to place Shares to selected Professional Investors with minimum subscriptions of 40,000 Shares. Further details of such Placing are set out in the section entitled "Placing Procedures" on page 27 above. The Placing Agreement contains certain representations, warranties and undertakings by the Company in favour of the Placing Agent. The Placing Agreement also contains provisions pursuant to which the Company has agreed to indemnify and hold harmless the Placing Agent, its directors, officers and agents from and against all or any claims, actions, liabilities, demands or proceedings brought or established against the Placing Agent by any subscriber or purchaser of the Shares pursuant to the Placing or any subsequent purchasers or transferees thereof or any other person whatsoever and against all losses, costs, charges or expenses (including legal fees) which the Placing Agent may suffer or incur which arise, directly or indirectly, by reason of or in connection with:

- (a) the placing documents not containing or being alleged not to contain all information required to be stated therein or otherwise material in the context of the offering of the Shares, or any statement therein being or being alleged to be untrue, inaccurate, incomplete, misleading or not based on reasonable grounds; or
- (b) any breach by the Company of any of its obligations thereunder or of any of the warranties or any misrepresentation or alleged misrepresentation contained in the placing documents.

The Placing Agreement may be terminated by any party in respect of a breach of obligations by the other party and by the Placing Agent in certain specified circumstances as set out in the Placing Agreement.

### **Custody Agreement**

Under the Custody Agreement the Custodian, the Vietnam Sub-Custodian and/or any other duly appointed sub-custodian will hold all assets of the Company received by the Custodian in accordance with the terms of the Custody Agreement. The Custody Agreement requires the Company's shares in Listed Companies to be held by a custodian registered as such in Vietnam and these assets will therefore be held by the Vietnam Sub-Custodian.

Details of the fees payable by the Company to the Custodian and the Vietnam Sub-Custodian under that agreement are set out under the heading "Other Fees and Expenses" on page 25 above of this Placing Memorandum.

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The Custody Agreement may be terminated by the Company or the Custodian upon 30 days' notice by either party. The Custody Agreement may also be terminated by either party summarily and with one day's notice upon any material breach by the other party.

The Custodian has appointed the Vietnam Sub-Custodian as a sub-custodian. The Custodian has represented that the choice of the Vietnam Sub-Custodian is reasonable and that it constitutes a suitable sub-custodian. The Custodian will be responsible to the Company for the duration of the sub-custody agreement for satisfying itself as to the ongoing suitability of the Vietnam Sub-Custodian to provide custodial services to the Company. The Custodian will also maintain an appropriate level of supervision over the Vietnam Sub-Custodian and will make appropriate inquiries periodically to confirm that the obligations of the Vietnam Sub-Custodian continues to be competently discharged. Subject to the terms of the Custody Agreement, the Custodian will generally remain liable for any negligence or wilful default of the person appointed.

In addition, the Company has undertaken to indemnify the Custodian against all charges, costs, damages, losses, claims, liabilities, expenses, fees and disbursements which the Custodian may suffer or incur in connection or arising from the Custody Agreement (other than due to breach by the Custodian of the Custody Agreement or due to wilful misconduct or negligence on the part of the Custodian).

The Custodian has agreed to use reasonable care in the performance of its duties under the Custody Agreement but is not responsible for any loss or damage suffered by the Company as a result of the Custodian performing such duties or for any act or omission in respect of any instructions and/or under the Custody Agreement unless the same results from negligence or wilful default on the part of the Custodian, in which event the Custodian's liability is limited to the market value of the relevant securities and/or cash at the time of (a) such negligence or wilful default or (b) the Company's discovery of the loss or damage (whichever is the higher).

Furthermore, among other provisions protecting the Custodian against potential liability, the Custody Agreement provides that the Custodian will not be liable to the Company or otherwise for any taxes or duties payable on or in respect of the property held in custody, nor for the management or diminution in value of that property.

The Custodian is entitled to act on the basis of instructions which purportedly emanate from an authorised representative of the Company.

### **Administration Agreement**

Under the Administration Agreement the Administrator (or its duly appointed delegate) has agreed to provide to the Company certain administrative services including maintaining the register of Shareholders of the Company and calculating the Net Asset Value per Share of the Company in accordance with information supplied to it. The Administrator will delegate certain of its functions and duties to the Administrator's Agent provided always that the original register of Shareholders will be maintained by the Administrator in the Cayman Island.

Details of the fees payable by the Company to the Administrator under that agreement are set out under the heading "Other Fees and Expenses" on page 25 above of this Placing Memorandum.

The Administration Agreement provides that the Administrator will not be liable to the Company for anything done or omitted to be done by the Administrator in connection with the services provided by the Administrator, except in the case of fraud, wilful default or negligence of the Administrator. In addition, the Company will indemnify the Administrator from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (other than those resulting from the fraud, negligence or wilful default on the part of the Administrator, its servants, agents or delegates) which may be imposed on, incurred, or asserted against the Administrator in performing its obligations or duties under the Administration Agreement or as a result of the assets of the Company being deemed to constitute the assets of any "plan" for purposes of the United States Employee Retirement Income Security Act of 1974, as amended.

The Administration Agreement will remain in effect unless terminated upon not less than three months' written notice by the Company or the Administrator. Either the Company or the Administrator can terminate the Administration Agreement forthwith by notice if the other has committed a material breach of the agreement which has not been remedied within thirty days after notice requiring the same to be remedied, or if the other goes into liquidation or has a receiver (or its equivalent) appointed over any of its assets.

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### Secretarial Services

Under the Secretarial Services Agreement the Secretary has agreed to provide certain company secretarial services to the Company and to provide the registered office for the Company.

The Secretarial Services Agreement will remain in effect unless terminated upon not less than three months' written notice by the Company or the Secretary. Either the Company or the Secretary can terminate the Secretarial Services Agreement forthwith by notice if the other has committed a breach of the agreement which has not been remedied within thirty days after notice requiring the same to be remedied.

The Company has agreed to indemnify (on a full indemnity basis) the Secretary, Charles Adams, Ritchie and Duckworth and their respective officers, employees and partners against all liabilities, costs and expenses incurred (other than as arise in the ordinary course of business) in providing services under the Secretarial Services Agreement save where such liability, costs and expenses arise through the fraud, wilful default or negligence of the Secretary, Charles Adams, Ritchie and Duckworth or any of their respective officers, employees and partners.

Details of the fees payable by the Company to the Secretary under that agreement are set out under the heading "Other Fees and Expenses" on page 25 above of this Placing Memorandum.

### LITIGATION

The Company is not engaged in any litigation or arbitration nor has it been so engaged since incorporation and no litigation or claim is known to the Directors to be pending or threatened by or against the Company.

### DOCUMENTS AVAILABLE FOR INSPECTION

Copies of the documents set out below will be available for inspection during normal business hours for fourteen days from the date of issue of this Placing Memorandum at the offices of NCB Stockbrokers Limited, 3 George's Dock, International Financial Services Centre, Dublin 1, Ireland and Freshfields Bruckhaus Deringer, #05-01, 17 Ngo Quyen, Hanoi, Vietnam;

- (a) the Certificate of Incorporation of the Company;
- (b) the Memorandum of Association of the Company and the Articles;
- (c) the Placing Agreement;
- (d) the Custody Agreement;
- (e) the Administration Agreement;
- (f) the Investment Management Agreement;
- (g) the Secretarial Services Agreement;
- (h) the Deed of Waiver;
- (i) the Companies Law of the Cayman Islands; and
- (j) a list of past and current directorships and partnerships held by each Director over the last 5 years.

In addition, the Company will send to The Irish Stock Exchange and to each of its registered Shareholders (i) on or before 31 March of each year, an annual report including audited financial statements for the preceding fiscal year, and (ii) on or before 31 July of each year, a semi-annual report including unaudited financial statements for the semi-annual period up to the last Valuation Day in the preceding March.

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## **SUPPLEMENTARY INFORMATION ABOUT THE COMPANY**

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### **MISCELLANEOUS**

The Company has not established a place of business in Ireland.

## TAXATION

The following is a summary of certain tax matters that should be considered by prospective investors. Investors are advised, however, to consult their own professional tax advisers about the tax consequences to them of the acquisition, ownership, conversion and disposal of Shares in the Company.

The summary below is based on advice received by the Company with regard to current law and practice and is necessarily general in nature. Moreover, while the summary below is based on laws in effect as at the date of this Placing Memorandum, such laws are subject to change. The Directors and other parties involved in the listing of the Shares and the Issue do not accept any responsibility for any adverse tax liabilities which may accrue to holders of Shares.

## VIETNAM

**Non-Vietnamese investments**

As a foreign legal entity, the Company will not be liable for Vietnamese taxes on its income derived outside Vietnam or capital gains derived from the sale or other disposal of its non-Vietnamese investments.

**Investee Companies – corporate income tax**

Prior to 1 January 2004, the effective date of the new Law on Corporate Income Tax passed by the National Assembly at the end of May 2003, Vietnamese enterprises established under the Foreign Investment Law ("foreign-invested companies") are liable to pay Vietnamese corporate income tax on their taxable profits at rates ranging generally from 10 per cent to 25 per cent, depending on the category into which such enterprise falls. Vietnamese enterprises established under the Enterprise Law ("domestic Vietnamese companies") are liable to pay Vietnamese corporate income tax on their taxable profits at rates of 32 per cent. In addition, a profits tax surcharge may apply to domestic Vietnamese companies which have a specified level of after-tax income.

As from 1 January 2004, under the new Law on Corporate Income Tax, Vietnamese corporate income tax rates are to be adjusted to a "standard" rate (subject to the possibility of various lower incentive rates depending on the category into which an enterprise falls) of 28% for both foreign-invested companies and domestic Vietnamese companies. In addition, companies will no longer be subject to a profit tax surcharge.

**Investee Companies – profit remittance tax**

Profits remitted to foreign investors in foreign-invested companies are currently subject to withholding taxes at rates which vary between 3 per cent and 7 per cent, although until recently the range was between 5 per cent and 10 per cent. As from 1 January 2004, the new Law on Corporate Income Tax repeals the profit remittance tax applicable to foreign investors in foreign-invested companies. However, it is not clear if profits remitted to existing foreign investors from existing investments will continue to be subject to the current rates of profit remittance tax either for a limited time or for their entire existence. The profit remittance tax applicable to profits which are remitted overseas by foreign investors investing in domestic Vietnamese companies would normally be 5 per cent.

**Capital gains tax**

If a foreign investor in a foreign-invested company sells all or part of its investment to another person, existing regulations stipulate that the profit received by the foreign investor will attract Vietnamese capital transfer tax at the standard rate of 25 per cent. It is unclear (i) whether one effect of the new Law on Corporate Income Tax will be to raise this rate to 28 per cent, or (ii) whether, with respect to foreign invested companies licensed before 1 January 2004, profits remittance tax at the rates mentioned above may also apply if the sales proceeds are remitted overseas.

If a foreign investor in a domestic Vietnamese company sells all or part of its investment to another person, the applicable capital transfer tax could be 10 per cent or 25 per cent (28 per cent after 1 January 2004). Profits remittance tax at the rates mentioned above may also apply if the sales proceeds are remitted overseas.

**CAYMAN ISLANDS**

The Company has received an undertaking from the Governor-in-Council of the Cayman Islands dated 27th May 2003 that, in accordance with Section 6 of the Tax Concessions Law (Revised) of the Cayman Islands, from the period of 20 years from the date of such undertaking no law which is enacted in the Cayman Islands providing for any tax to be levied on profit, income, gains or appreciations shall apply to the Company or its operations and, in addition, that no tax to be levied on profits, income, gains or appreciations or which is in the nature of estate duty or inheritance tax shall be payable (i) on the Shares or debentures or other obligations of the Company or (ii) by way of the withholding in whole or in part of any payment of a dividend or other distribution of income or capital by the Company to its members or any payment of principal, interest or other sums due under a debenture or other obligation of the Company.

Under current Cayman Islands law no tax will be charged in the Cayman Islands on profit or gains of the Company, and dividends of the Company will be payable to Shareholders resident in or outside the Cayman Islands without deduction of tax. No stamp duty is levied in the Cayman Islands on the transfer or redemption of Shares in the Company. An annual registration fee will be payable by the Company in the Cayman Islands which will be calculated by reference to the nominal amount of the Company's authorised share capital. On the basis of the current rate that fee will be approximately US\$805 per annum.

**FRANCE****The Company**

The Company does not have a registered office in France and it is the intention of the Directors that neither the central management and control nor the day-to-day management of the business of the Company should be undertaken in France. Accordingly, the Company shall not be resident in France for taxation purposes. It is also the intention of the Directors that the Company should not carry on any trade in France and hence the Company shall not be liable to corporation tax in France on its income and gains.

**Shareholders****Dividends received by Shareholders**

Dividends which the Company pays on the Shares will be subject to income tax or corporation tax in the hands of Shareholders resident in France.

*Individual French tax resident holding shares as part of their private assets and customarily not engaged in exchange operations*

Dividends distributed by the Company to an individual French tax resident will be subject to income tax at marginal tax rates (the highest rate amounting to 49.58 per cent) together with a general social contribution of 7.5 per cent of which 5.1 per cent is deductible, a general social contribution of 2 per cent, and a social debt repayment contribution of 0.5 per cent.

*French tax resident legal entities subject to corporate income tax*

Dividends distributed by the Company to a French Shareholder subject to corporation tax will be subject to corporate income tax at the rate of 33.33 per cent plus a contribution of 3 per cent assessed on the amount of corporate income tax and if applicable a social contribution of 3.3 per cent assessed on the amount of corporate income tax.

However, a favourable tax regime (Parent/Subsidiary regime) may apply if certain conditions are satisfied and if the entity has opted for that favourable regime. The dividends received are then 95 per cent exempt from taxation.

**Capital gains realised by Shareholders**

A French tax resident Shareholder may become chargeable to capital gains tax on any gain arising upon a sale or other disposal of the Shares.

*Individual French tax residents holding shares as part of their private assets and customarily not engaged in exchange operations*

Pursuant to the provisions of article 150-0 A of the French Tax Code, capital gains resulting from the sale of shares by individuals are taxable, from the first euro, if the total amount of disposals of securities realised during that calendar year in respect of that household is greater than 15,000 euros, as follows: income tax rate of 16 per cent together with various social contributions adding up to another 10 per cent (total rate of 26 per cent).

*French tax resident legal entities subject to corporate income tax*

Disposals of shares, other than equity participations, will give rise to a gain or loss included in the taxable income of the entity and are taxable at the rate of 33.33 per cent plus an additional contribution of 3 per cent assessed on the amount of corporate income tax. and the social contribution of 3.3 per cent assessed on the amount of corporate income tax.

Capital gains arising from the disposal of equity participations or of shares which are treated for tax purposes as equity participations (i) are eligible for the long-term capital gains regime, provided they have been held for two years and provided a special reserve of long-term capital gains is created, and (ii) are taxable at the rate of 19 per cent plus additional contribution of 3 per cent assessed on the amount of long term capital gains tax. and if applicable a social contribution of 3.3 per cent assessed on the amount of long term capital gains tax.

**Wealth tax**

Shares held by individuals will be included in their taxable assets, for wealth tax purposes.

**French CFC rules**

The attention of the French tax resident individuals and legal entities is drawn to the fact that the controlled foreign companies provisions under article 123 bis and 209 B of the French Tax Code could be material to any individual or companies holding directly or indirectly respectively 10 per cent and 25 per cent of the share capital of the Company. In that event, the relevant Shareholder may be liable to French tax on such Shareholder's proportionate share of the Company's undistributed profits arising in respect of any accounting period of the Company.

**HONG KONG****The Company**

It is intended that the Company's affairs will be conducted so that it will not be subject to Hong Kong corporation tax on its income.

**Shareholders**

There is no tax in Hong Kong on gains arising from the sale by an Shareholder of the Shares except where the acquisition and disposal of the Shares is or forms part of a profession or business carried on by the Shareholder in Hong Kong.

Dividends which the Company pays on its Shares will not be chargeable to tax in Hong Kong (whether by way of withholding or otherwise) under current legislation and practice. No Hong Kong stamp duty will be payable in respect of transactions in the Shares and no estate duty should be levied at the time of death of an individual Shareholder on the basis that the register of Shareholders will be maintained outside Hong Kong.

**SINGAPORE****The Company**

It is intended that the Company's affairs will be conducted so that it will not be resident in Singapore for taxation purposes. It is also intended that the Company will not earn any Singapore sourced income.

**Shareholders**

Individuals resident in Singapore are subject to personal income tax on income accrued in or derived from Singapore or income sourced elsewhere but received in Singapore. Singapore corporations are also subject to income tax on income arising in or derived from Singapore and income sourced elsewhere but received in Singapore.

Singapore does not impose tax on capital gains, although gains from the sale of shares arising in the course of a trade in shares will be treated as trading profits rather than as capital gains. Whether a transaction produces capital gains versus trading gains is not always clear. Although Singapore does not have an income tax treaty with the country of residence of the Company, Singapore should grant a unilateral foreign tax credit for foreign taxes paid with respect to dividends received by a Singapore resident company or individual from the Company, or, in certain cases, paid with respect to the earnings out of which the dividends are paid.

**UNITED KINGDOM****The Company**

It is the intention of the Directors that neither the central management and control nor the day-to-day management of the business of the Company will be undertaken in the United Kingdom. It is also the intention of the Directors that the Company should not carry on any trade in the United Kingdom. Accordingly, the Company should not be deemed resident in the United Kingdom for taxation purposes and should not be liable to United Kingdom corporation tax on its income and gains.

**Shareholders**

The information below applies only to persons holding Shares as investments and may not apply to certain classes of persons such as securities dealers.

Dividends which the Company pays on the Shares will normally be chargeable to income tax or corporation tax in the hands of a Shareholder resident in the United Kingdom in accordance with his particular circumstances.

A United Kingdom resident Shareholder may become chargeable to capital gains tax (or corporation tax on chargeable gains) on any gain arising on a sale, redemption or other disposal of Shares. The Directors consider that the Company is currently not a "collective investment scheme" within the meaning of section 236 of the Financial Services and Markets Act 2000, as amended and, accordingly, the Company will not currently be treated as an "offshore fund" for the purposes of Chapter V Part XVII of the Income and Corporation Taxes Act 1988, as amended ("ICTA"). Accordingly, under existing law, gains arising on a sale, redemption or other disposal of the Shares should not be treated as income under the legislation in Chapter V Part XVII of ICTA.

However, in certain circumstances the Company would become a "collective investment scheme" within the meaning of section 236 of the Financial Services and Markets Act 2000, as amended. This would be the case if, for example, the Directors were to redeem Shares in such a way that a reasonable investor would, if he were to invest in the Company, expect that he would be able to realise, within a period appearing to him to be reasonable, his investment in the Company, and be satisfied that his investment in the Company would be realised on a basis calculated wholly or mainly by reference to the value of the assets of the Company. Notwithstanding that, the Directors do not consider it likely that the Company would become an "offshore fund" for the purposes of Chapter V Part XVII of ICTA.

The Inland Revenue issued a consultation document on 22 April 2002 initiating a review of the existing offshore funds legislation, and on 27 November 2002 published a summary of responses to that consultation document. In the light of those responses, the United Kingdom government proposes to replace the existing offshore funds legislation in 2004 with new rules that will provide similar tax treatment to investments in offshore funds and equivalent UK products. The Inland Revenue has not so far published any draft legislation concerning the new rules. Naturally, it is not possible to predict whether any reform of the existing offshore funds legislation will indeed take place and if it does, what form the new rules will take or when they will come into force.

The attention of United Kingdom resident companies is drawn to the fact that the controlled foreign companies provisions contained in Chapter IV Part XVII and Schedules 24 to 26 of ICTA could be material to any United Kingdom resident company that holds, alone or together with connected or associated persons, an interest of 25 per cent or more in the Company, if at the same time the Company is deemed controlled by persons who are resident in the United Kingdom. In that event, the relevant Shareholder may be liable to United Kingdom corporation tax on such Shareholder's proportionate share of the Company's undistributed income profits arising in respect of any accounting period of the Company.

The attention of individuals ordinarily resident in the United Kingdom is drawn to the provisions of sections 739 and 740 of ICTA which may render them liable to income tax in respect of any undistributed income of the Company.

If the Company would be a close company if it were resident in the United Kingdom, gains accruing to it may be apportioned to certain United Kingdom resident Shareholders and charged to capital gains tax (or corporation tax on chargeable gains) on the gains apportioned to them.

#### **Stamp Duty and Stamp Duty Reserve Tax**

No United Kingdom stamp duty or stamp duty reserve tax will be payable on the issue of the Shares.

United Kingdom stamp duty (at the rate of 0.5 per cent of the amount or the value of the consideration for the transfer) may be payable on certain instruments of transfer of Shares, such as those executed within the United Kingdom. Provided that the Shares are not registered in any register of the Company kept in the United Kingdom, any agreement to transfer Shares will not be subject to United Kingdom stamp duty reserve tax.

The above statements regarding United Kingdom stamp duty and stamp duty reserve tax should not apply to the issue or transfer of Shares to persons to whom the depositary receipt or clearance service charge applies.

#### **General**

The Company assumes no responsibility for deduction of tax at source.

#### **SWITZERLAND**

##### **The Company**

It is the intention of the Company that neither the central management and control nor the day-to-day management of the Company will be undertaken in Switzerland. Accordingly, the Company should not be deemed resident in Switzerland for taxation purposes and, therefore, the Company should not be liable to Swiss corporation tax on its income and gains.

##### **Shareholders**

The following is a summary of certain tax considerations relevant to the ownership, acquisition and disposition of the Shares. The following summary does not purport to address all tax consequences of the ownership of Shares, and does not take into account the specific circumstances of any particular investor. This summary is based on the tax laws of Switzerland as in effect on the date hereof, which are subject to change (or changes in interpretation), possibly with retroactive effect. Potential investors are advised to consult their tax advisers in light of their particular circumstances.

**Swiss Income Taxation***Taxation of Income from Corporations*

## a) Classification

Normally, closed-end investment companies are classified as corporations and, consequently, as entities separate from their owner for tax purposes.

## b) Income Taxation

*Individuals*

An individual who is a resident in Switzerland for income tax purposes, or a non-resident legal entity but holding shares as part of a business operation or permanent establishment in Switzerland, is required to report the receipt of taxable distributions received on the shares in his tax return.

*Legal Entities*

Legal entities resident in Switzerland or non-resident legal entities holding shares as part of a Swiss establishment are required to include taxable distributions received on the shares in their income subject to federal and cantonal corporate income taxes. A Swiss corporation or cooperative or a non-Swiss corporation or co-operative holding shares as part of a Swiss permanent establishment may, under certain circumstances, benefit from relief from taxation with respect to dividends (*Beteiligungsabzug*).

## c) Capital Gains Realised on Shares

*Individuals*

Swiss resident individuals who hold Shares as part of their private property are generally exempt from federal, cantonal and communal taxes with respect to capital gains realised upon the sale or other disposal of shares, unless such individuals are qualified as security trading professionals for income tax purposes. Gains realised upon a repurchase of shares by a company for the purpose of a capital reduction are characterized as taxable distributions. The same is true for gains realised upon a repurchase of shares if the company were not to dispose of the repurchased shares within six years after the repurchase of such shares. Taxable income would be the entire difference between the repurchase price and the nominal value of the shares. Individuals who are Swiss residents for tax purposes and who hold shares as business assets, or are non-Swiss residents holding shares as part of a Swiss business operation or Swiss permanent establishment are required to include capital gains realised upon the disposal of shares in their income subject to Swiss income tax.

*Legal Entities*

Legal entities resident in Switzerland or non-Swiss resident legal entities holding shares as part of a Swiss permanent establishment are required to include capital gains realised upon the disposal of shares in their income subject to Swiss corporate income tax. Under certain circumstances they may benefit from the relief from taxation with respect to capital gains on major participations (*Beteiligungsabzug*).

*Taxation of Mutual Funds*

## a) Classification

In the Swiss federation and all cantons except the cantons of Zurich, Grison and Berne the participation in the Company may be classified as participation in a mutual fund. Mutual funds are disregarded as an entity separate from its owner for Swiss tax purposes. Income on the investments of mutual funds are therefore deemed for Swiss tax purposes income of the holder of the shares.

## b) Income Taxation

- (1) Interest Income, Dividend Distributions

*Individuals*

An individual who is a Swiss resident for tax purposes, or is a non-Swiss resident holding a participation in the Company as part of a Swiss business operation or Swiss permanent establishment, is required to report the receipt of interest and dividend distributions on the investments of the Company as taxable income in his relevant Swiss tax return.

*Legal Entities*

Legal entities resident in Switzerland or non-Swiss resident legal entities holding Shares as part of a Swiss establishment are required to include interest income and dividend distributions on the investments of the Company in their income subject to Swiss corporate income taxes. A Swiss corporation or co-operative or a non-Swiss corporation or co-operative holding investments through the Company as part of a Swiss permanent establishment may, under certain circumstances, benefit from relief from taxation with respect to dividends (*Beteiligungsabzug*).

## (2) Capital Gains

*Individuals*

Swiss resident individuals who hold shares in mutual funds as part of their private property are generally exempt from Swiss federal, cantonal and communal taxes with respect to capital gains realised upon the sale or other disposal of the shares, unless such individuals are qualified as security trading professionals for income tax purposes. Gains realised upon a repurchase of shares by a company for the purpose of a capital reduction are tax-free.

*Legal Entities*

Legal entities resident in Switzerland or non-Swiss resident legal entities holding shares in a mutual fund as part of a Swiss permanent establishment are required to include capital gains realised upon the disposal of shares in their income subject to Swiss corporate income tax.

**Swiss Net Worth and Capital Taxes***Individuals*

Individuals who are Swiss residents for tax purposes, or are non-Swiss residents holding Shares as part of a Swiss business operation or Swiss permanent establishment are required to include their shares in their taxable wealth which is subject to cantonal and communal net worth tax.

*Legal Entities*

Legal entities resident in Switzerland or non-Swiss resident legal entities holding Shares as part of a Swiss permanent establishment are required to include their shares in their assets. The legal entities' equities are then subject to cantonal and communal capital tax.

**Non Swiss Resident Individuals and Legal Entities**

Individuals and legal entities which are not resident in Switzerland for tax purposes and do not hold Shares as part of a Swiss business operation or a Swiss permanent establishment are advised to consult their tax advisers in light of their particular circumstances.

**Securities Transfer Tax**

Dealings in Shares where a Swiss domestic bank or a Swiss domestic securities dealer (as defined in the Swiss Federal Stamp Duty Act) purchases or acts as an intermediary may be subject to the Swiss federal stamp duty on dealing in securities at a rate of up to 0.3 per cent of the purchase price of the Shares.

**UNITED STATES**

The following summary addresses only US federal income tax considerations for US Holders that will hold Shares as capital assets and use US dollars as their functional currency. It does not address the tax treatment of purchasers subject to special rules, such as banks, dealers, traders in securities that elect mark to market treatment, insurance companies, tax-exempt entities, holders of 10 per cent or more of the Shares and persons holding these Shares as part of a hedge, straddle, conversion or other integrated financial transaction.

**INVESTORS SHOULD CONSULT THEIR TAX ADVISERS ABOUT THE US FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF PURCHASING, HOLDING AND DISPOSING OF THE SHARES.**

As used here, "US Holder" means a beneficial owner of a Share that is (i) a US citizen or resident, (ii) a corporation, partnership or other business entity organized under US laws, (iii) a trust subject to the control of a US person and the primary supervision of a US court or (iv) an estate the income of which is subject to US federal income tax regardless of its source.

**The Company**

The Company does not intend to invest in securities of companies established in the United States or to conduct any business through a US office or other fixed place of business in the United States. Therefore, the Company does not expect to be engaged in a trade or business within the United States or to be subject to US Federal income tax on its net income.

**Shareholders****Dividends**

Subject to the "Foreign Personal Holding Company" rules described below, dividends with respect to the Shares generally will be included in the gross income of a US Holder as ordinary income from foreign sources. The dividends will not be eligible for the dividends-received deduction available to corporations. Dividends of property other than cash generally will be included in income in an amount equal to the fair market value of the distributed property on the date the dividends are received. For US federal income tax purposes, taxable dividends include (i) amounts received pursuant to a pro rata redemption of Shares and (ii) distributions of additional shares if (a) any holder may elect to receive either shares or cash or other property or (b) the distribution will result in the receipt of cash or other property by some holders and the receipt of additional shares by other holders. Distributions in excess of the Company's earnings and profits generally will be treated as a return of capital and then as gain. All distributions will be subject to special tax rules, which are described in the "Passive Foreign Investment Company" discussion below, to the extent that they are or are part of an excess distribution (as defined below).

**Dispositions**

Subject to the "Foreign Personal Holding Company" rules described below, a US Holder will recognize gain or loss on the sale or other disposition (including a non-pro rata redemption) of Shares in an amount equal to the difference between the US Holder's basis in the Shares and the amount realised from the sale or other disposition. Any gain will be ordinary income as described in the "Passive Foreign Investment Company" discussion below, but any loss will be capital loss.

**Passive Foreign Investment Company**

The Company expects to be a passive foreign investment company (a "PFIC") for US federal income tax purposes. If the Company is a PFIC, a US Holder will be subject to additional tax on excess distributions received with respect to the Shares or gain realised on the disposition of the Shares. A US Holder will have an excess distribution to the extent that distributions on the Shares during a taxable year exceed 125 per cent of the average amount received during the three preceding taxable years (or, if shorter, the US Holder's holding period). A US Holder may realise gain on the Shares not only through a sale or other disposition, but also by pledging the

Shares as security for a loan or entering into certain constructive disposition transactions. To compute the tax on excess distributions or any gain, (i) the excess distribution or the gain is allocated ratably over the US Holder's holding period, (ii) the amount allocated to the current taxable year is taxed as ordinary income and (iii) the amount allocated to each previous taxable year is taxed at the highest applicable marginal rate in effect for that year and an interest charge is imposed to recover the deemed benefit of the deferred payment of the tax. A US Holder of Shares will not be able to avoid some of the tax consequences just described by electing to treat the Company as a qualified electing fund because the Company does not intend to provide the information that US Holders need to make such an election.

It also is likely that a US Holder of Shares will not be able to elect to mark the shares to market annually. A US Holder can elect to mark the shares to market only if the shares are marketable stock as defined in US Treasury Regulations. Shares are marketable if they are regularly traded on a qualified exchange or other market, and shares are regularly traded if they are traded, other than in de minimis quantities, on at least 15 days during each calendar quarter. Although The Irish Stock Exchange may be a qualified exchange, the Company does not expect that there will be sufficient trading in the Shares. Each US Holder should ask its tax adviser whether a mark to market election is available or desirable.

Even if a mark to market election were available, any gain from marking the Shares to market or from disposing of them would be ordinary income. A US Holder will recognize loss from marking the shares to market, but only to the extent of its unreversed gains. Loss from marking the shares to market will be ordinary, but loss on disposing of them will be capital loss, except to the extent of unreversed gains.

US Holders will be treated as indirect holders of their proportionate share of the Company's equity investments in other companies that are PFICs and they will be taxed on their proportionate share of any distribution or gain attributable to the investments.

#### **Foreign Personal Holding Company**

The Company will be a foreign personal holding company (an "FPHC") if five or fewer US citizens or resident individuals own (directly, indirectly or by attribution) more than 50 per cent (by vote or value) of the Shares. If the Issuer is an FPHC, any US Holder must include in income constructive dividends equal to its share of the Company's taxable income (as specially adjusted, including a deduction for dividends paid). The constructive dividends would be treated as income from US sources in proportion to the income that the Company receives from US sources. A US Holder's basis in its Shares would increase by any constructive dividends the holder includes in income.

Dividends paid out of current earnings generally will be subject to the rules described in "Dividends" above. Dividends paid out of accumulated earnings previously included in a US Holder's income under the FPHC rules generally will be treated as a return of capital. Excess distributions or any gain that a holder realises on the sale or other disposition of its Shares will be subject to the rules described in "Passive Foreign Investment Company" above.

#### **Information Reporting and Backup Withholding**

Dividends from the Shares and proceeds from the sale of the Shares may be reported to the US Internal Revenue Service unless the holder (i) is a corporation, (ii) provides a properly executed IRS Form W-8 or (iii) otherwise establishes a basis for exemption. Backup withholding tax may apply to amounts subject to reporting if the holder fails to provide an accurate taxpayer identification number or otherwise establish an exemption. The holder can claim a credit against its US federal income tax liability for the amount of any backup withholding tax and a refund of any excess amount.

#### **ERISA Considerations**

The United States Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the Internal Revenue Code (the "Code") set forth certain restrictions regarding the investment of assets by employee benefit plans and individual retirement accounts (hereinafter collectively referred to as "Plan" or "Plans"), which include employee pension benefit plans and employee welfare benefit plans, as defined in ERISA. An "individual

retirement account” is defined generally as a trust created for the exclusive benefit of an individual that meets the requirements set forth in Section 408(a) of the Code and the regulations thereunder.

ERISA imposes specific requirements on fiduciaries of plans, namely, that they make prudent investments, that they diversify investments, and that they make investments in accordance with Plan documents and in the best interests of participants and their beneficiaries. Accordingly, fiduciaries of a Plan should determine whether, in light of the investment policies of the Plan and the terms and conditions of the proposed investments, the subscription for, acquisition and holding of Shares is a prudent investment; consistent with Plan documents; and in the best interests of the participants and their beneficiaries.

In addition, Section 406 of ERISA and Section 4975 of the Code prohibit “parties in interest” under ERISA and “disqualified persons” under the Code from engaging in certain “prohibited transactions” involving a Plan. A violation of these prohibited transactions rules may result in a breach of fiduciary duty under ERISA and the imposition of an excise tax or other penalties and liabilities under ERISA and/or the Code for such persons.

A possible violation of the prohibited transaction rules could occur, for example, upon the subscription for, acquisition, or holding of a Share by a Plan if the Administrator, the Placing Agent, the Custodian, the Investment Manager, the Company, a Director, or any of their respective affiliates were a “party in interest” or “disqualified person” with respect to such Plan. However, both ERISA and the Code provide for certain statutory, regulatory and administrative exemptions from the prohibited transaction rules. Further, the US Department of Labor has issued a number of class exemptions that may apply to prohibited transactions arising from the subscription for, acquisition or holding of a Share, including: Class Exemption 84-14 (Plan Asset Transactions by Independent Qualified Professional Asset Managers), Class Exemption 90-1 (Acquisition or Holding of Employer Securities or Real Property By Insurance Company Pooled Separate Accounts), and Class Exemption 91-38 (Transactions between Bank Collective Investment Companies and Parties in Interest) and Class Exemption 95-60 (Transactions involving insurance company general accounts). In view of the foregoing, fiduciaries of a Plan who are considering an investment of Plan assets in the Shares should consult their own counsel regarding whether such investment could result in a prohibited transaction under ERISA or the Code.

However, the Directors have decided to reduce the potential exposure for violations of the prohibited transaction rules. Accordingly, the Shares may not be purchased by any Plan if the Administrator, the Placing Agent, the Custodian, the Investment Manager, the Company, a Director, or any of their respective affiliates is a fiduciary with respect to such Plan. In addition, the Shares and Shares may not be purchased by any "employee benefit plan" as defined in Section 3(3) of ERISA, that is subject to ERISA; any plan described in Section 4975(e)(1) of the Code; an entity whose underlying assets include assets of such plans by reason of a plan's investment in such entity; or a governmental or church plan which is subject to any US Federal, state or local law that is substantially similar to the provisions of section 406 of ERISA or Section 4975 of the Code, unless its purchase and holding of a Share will not result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or, in the case of a governmental or church plan, a violation of any substantially similar US Federal, state or local law.

Shares acquired by a Plan will be considered assets of that Plan. A Plan fiduciary should also consider, however, whether a Plan investing in the Shares will be deemed to own also an undivided interest in the underlying assets of the Company under relevant US Department of Labor “plan asset” regulations. If the assets of the Company were deemed to be assets of such a Plan, then any person who (i) exercises authority or control over the management of the Company or the disposition of the Company's assets or (ii) renders investment advice with respect to the Company's assets, could be held to be a “fiduciary” under ERISA and the Code, and all of the ERISA and Code fiduciary and prohibited transactions rules would apply to the structure and operation of the Company and the investment or other disposition of the Company's assets.

The US Department of Labor “plan asset” regulations provide, however, that the underlying assets of the Company will not be considered “plan assets” if investment by “benefit plan investors” in the Company is less than 25 per cent of the value of each class of equity interests of the Company (excluding equity interests of that class held by persons who have discretionary authority or control with respect to the assets of the Company, persons who provide investment advice for a fee, direct or indirect, with respect to such assets, and any affiliates of such persons). Accordingly, no benefit plan investor will be entitled to purchase or hold or subscribe for Shares if that will result in 25 per cent or more of the Shares being acquired or held by benefit plan investors (excluding Shares held by persons who have discretionary authority or control with respect to the assets of the Company, persons who provide

investment advice for a fee, direct or indirect, with respect to such assets, and any affiliates of such persons), in order to avoid the assets of the Company being treated as “plan assets” for the purposes of ERISA. All purchasers and other transferees of Shares will be required to certify whether or not they are benefit plan investors and any purchase by or transfer of Shares to any benefit plan investors will be subject to the consent of the Directors.

For purpose of the “plan assets” rules, a “benefit plan investor” is any of the following: (i) any “employee benefit plan” defined in Section 3(3) of ERISA, which includes any “employee pension benefit plan” or “employee welfare benefit plan” as defined in ERISA, whether or not such Plan is established or maintained in the United States or any other jurisdiction and whether or not such Plan is subject to Title 1 of ERISA, (ii) any plan described in Section 4975(e)(1) of the Code, and (iii) any entity whose underlying assets include Plan assets by reason of a Plan’s investment in the entity.

If the Directors determine that investments by “benefit plan investors” at any time exceed the 25 per cent limitation described above, the Directors may require that the Shares beneficially owned by one or more benefit plan investors be redeemed, transferred or resold in accordance with the Articles of Association. Any purchaser or other transferee of Shares will be required to certify whether or not it is a “benefit plan investor”, and the purchase by or transfer of the Shares by any Plan will be subject to the consent of the Directors.

Assets of Plans subject to ERISA must at all times comply with the “indicia of ownership” rules set forth in Section 404(b) of ERISA. Fiduciaries of such Plans who are considering an investment of Plan assets in Shares should consult with their own counsel regarding compliance with these rules.

An insurance company proposing to invest assets of its general account in Shares should consider the extent to which such investment would be subject to the requirements of ERISA in light of the US Supreme Court’s decision in *John Hancock Mut. Life Ins. Co. v. Harris Trust and Savings Bank*, and under any subsequent guidance that may become available relating to that decision. In particular, such an insurance company should consider the retroactive and prospective exemptive relief granted by the US Department of Labor for transactions involving insurance company general accounts and the provisions of Section 401(c) of ERISA, as interpreted by regulations published by the U.S. Department of Labor in January, 2000, 29 C.F.R. § 2550.401c-1.

The discussion of ERISA contained in this Placing Memorandum is, of necessity, general, and does not purport to be complete. Moreover, the provisions of ERISA are subject to extensive and continuing administrative and judicial interpretation and review. Therefore, the matters discussed above may be affected by future regulations, rulings, and court decisions, some of which may have retroactive application and effect.

**ANY POTENTIAL INVESTOR CONSIDERING AN INVESTMENT IN THE SHARES THAT IS, OR IS ACTING ON BEHALF OF, A PLAN IS STRONGLY URGED TO CONSULT ITS OWN LEGAL AND TAX ADVISERS REGARDING THE CONSEQUENCES OF SUCH AN INVESTMENT UNDER ERISA AND SECTION 4975 OF THE CODE AND THE ABILITY TO MAKE THE REPRESENTATIONS DESCRIBED ABOVE.**

## UNITED STATES SELLING RESTRICTIONS

The Shares have not been, and it is not intended that they will be, registered under the United States Securities Act of 1933, as amended (the “1933 Act”), and have not been registered or qualified under any state securities or “Blue Sky” law of the United States and may not be offered, sold, transferred or delivered within the United States absent registration except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the 1933 Act and similar requirements of such state laws. The Placing Agent has agreed, in the Placing Agreement, to offer and sell the Shares in the United States in reliance on the exemption from the registration requirements provided by Section 4(2) of the 1933 Act only to “Accredited Investors” (within the meaning of Rule 501(a)(1),(2),(3) or (7) under the 1933 Act) that are also “Qualified Institutional Buyers” (as defined in and in reliance on Rule 144A under the 1933 Act) and “Qualified Purchasers” (as defined in Section 2(a)(51)(A) of the Investment Company Act of 1940, as amended (the “1940 Act”)) and exemptions of similar import under state securities laws, and to offer and sell the Shares outside the United States only in accordance with Regulation S under the 1933 Act. Purchasers of the Shares within the United States may only resell such Shares in the United States to Qualified Institutional Buyers pursuant to the exemption provided by Rule 144A that are also Qualified Purchasers with the prior approval of the Directors or outside the United States pursuant to the exemption provided by Regulation S. Prospective subscribers or purchasers will not be able to purchase the Shares unless they meet the legal requirements to establish their eligibility to purchase the Shares to the satisfaction of the Company, including making appropriate representations to the effect by completing a placing letter. Prospective purchasers are hereby notified that the seller of any Shares may be relying on the exemption from the provisions of Section 5 of the 1933 Act provided by Rule 144A or another exemption from, or transaction not subject to, the registration requirements under the 1933 Act.

No benefit plan investor will be entitled to purchase or hold or subscribe for Shares if that will result in 25 per cent or more of the Shares being acquired or held by benefit plan investors (excluding Shares held by persons who have discretionary authority or control with respect to the assets of the Company, persons who provide investment advice for a fee, direct or indirect, with respect to such assets, and any affiliates of such persons), in order to avoid the assets of the Company being treated as “plan assets” for the purposes of ERISA. All purchasers and other transferees of Shares will be required to certify whether or not they are benefit plan investors and any purchase by or transfer of Shares to any benefit plan investors will be subject to the consent of the Directors.

The Company has not registered, and does not intend to register, as an investment company under the 1940 Act. Based on interpretations of the 1940 Act by the Staff of the SEC relating to foreign investment companies, if, *inter alia*, the Company has more than 100 beneficial owners of its Shares who are US persons, or if the Shares are acquired by US persons who are not Qualified Purchasers at the time of acquisition of such shares, the Company may become subject to the registration requirements of the 1940 Act, which may have material adverse consequences for the Company. Accordingly, the Company will attempt to ensure that Shares are beneficially owned by no more than 100 US persons, or the Company will attempt to ensure that Shares are not owned by US persons who are not Qualified Purchasers at the time of acquisition of such shares.

Subscribers or purchasers of Shares who are sold or offered Shares outside of the United States pursuant to the Placing will be required to certify whether they are or are not benefit plan investors, and, if they are benefit plan investors, that (i) their purchase and holding of Shares will not result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or, in the case of a governmental or church plan, a violation of any substantially similar US Federal, state or local law, and (ii) the fiduciary of the subscribers or purchasers is not the Administrator, the Placing Agent, the Custodian, the Investment Manager, the Company, a Director, or any of their respective affiliates. In addition, such subscribers and purchasers will be required to certify as to their non-US person status to the Placing Agent and must commit not to transfer to any US person without the Company’s consent and to notify the Company if they become at any time a US person. If such persons are unable to give such certifications they will only be allowed to purchase or subscribe if such purchase or subscription is approved by the Directors and they will be required to obtain the same form of certification, to be provided to the Registrar of the Company, on any resale of Shares. Any transfer where such certifications as to non-US person status cannot be given will be subject to the approval of the Directors.

In addition, any subscriber or subsequent purchaser who is a US person must represent that at the completion of the subscription or purchase their holding will not exceed 10 per cent of the Shares, unless that subscriber or subsequent purchaser has received the consent of the Directors.

If at any time, as a result of events of which the Company has notice, the Shares are owned directly or indirectly or beneficially by any person (a “Non Qualifying Person”) in breach of any law or requirement of any country or governmental authority so that, in the opinion of the Company, the tax status or residence of the Company is or may be prejudiced or the Company may suffer any pecuniary disadvantage or the Company would be required to comply with any registration or filing requirements in any jurisdiction, with which it would not otherwise be required to comply, or may result in the assets of the Company being deemed to be “plan assets” for the purposes of the United States Employee Retirement Income Security Act of 1974, as amended (“ERISA”), or may require the registration of the Company as an “investment company” under the United States Investment Company Act of 1940, as amended (the “1940 Act”), the Company may, in accordance with the Articles of Association of the Company, determine to redeem such Shares or require such Non Qualifying Person to transfer such Shares to a person who is qualified or entitled to own the same and, who would not, if such shares were transferred to him, be a Non Qualifying Person.

The procedure for determining which Shares will be redeemed, retransferred or resold in any particular case is at the discretion of the Company. In exercising its discretion and in making determinations as to whether to redeem or require the sale or transfer of Shares, and in determining which holders shall be subject to mandatory redemption or sale or transfer, the Company may act upon the basis of such information as may be known to it, without any obligation to make special enquiries, and may rely upon the advice of United States securities law counsel. In no event shall the Company be liable to any holder for any consequence of exercising or making in good faith any discretion or determination with respect to such redemption, retransfer or resale.

In the case of a redemption, retransfer or resale of the Shares held by a person, it is possible that the timing of the redemption, retransfer or resale may result in realisation by the holder of short-term capital gain or loss rather than long-term capital gain or loss, or that such gain or loss may be realised in a taxable year of the holder other than the year in which the holder anticipated realisation of such gain or loss.

Upon making any determination to redeem, require retransfer or require resale of the Shares, the Company shall give notice to the relevant holders in accordance with the provisions of the Articles of Association.

The provisions in the Articles of Association relating to compulsory transfer and restrictions on transfer are set out on pages 44 above.

In addition, until 40 days after the commencement of the Placing, an offer or sale of any of the Shares within the United States by a dealer (whether or not participating in the offering) may violate the registration requirements of the 1933 Act if made otherwise than in accordance with Section 4(2) under the 1933 Act or pursuant to another exemption from registration under the 1933 Act.