



THE RF PENSION PLAN

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AMENDED AND RESTATED TRUST DEED DATED 19<sup>TH</sup> JULY 2022

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**THIS DEED OF AMENDMENT AND RESTATEMENT** is made the 19<sup>th</sup> day of July 2022 by **RF BANK & TRUST (CAYMAN) LIMITED** of 36A, Dr. Roy's Drive, PO Box 914 GT, George Town, Grand Cayman, Cayman Islands (the **Original Trustee**):

#### **RECITALS**

- (A) The Original Trustee is established under the Companies Act (as revised) and holds a restricted Trust Licence under the Banks and Trust Companies Act (as revised).
- (B) By a deed dated 1 April 2004 (the **Original Trust Deed**) the Original Trustee (previously called Fidelity Pension Services (Cayman) Limited) established a multi-employer and defined contribution pension plan now registered in accordance with the provisions of the National Pensions Act (as revised) and acts as administrator in respect thereof.
- (C) The Original Trustee is the current sole trustee of the Plan.
- (D) Clause 3.2 of the Original Trust Deed confers power on the Trustees, subject to section 12(7) of the Law and with the consent of the [Director] (previously Superintendent), to make any changes to the Original Trust Deed as they may deem necessary or desirable.
- (E) With a view to amending and restating the Original Trust Deed, the Trustees have, with the approval of the Director pursuant to Section 12(7) of the Law, executed this Deed of Amendment and Restatement (referred to below as the **Trust Deed**) and agree for the benefit of the Members as hereinafter defined to hold and deal with the assets contributed to the Plan in accordance with the provisions hereof.
- (F) The Plan was originally known as the 'Fidelity Pension Plan' but shall henceforward be known as the 'RF Pension Plan'.

#### **INTERPRETATION AND DEFINITIONS**

##### **1. INTERPRETATION**

- 1.1 The headings in this Trust Deed are for convenience only and shall not affect the construction of this Trust Deed.
- 1.2 Words importing the singular number only shall include the plural and vice versa.
- 1.3 Words importing any particular gender shall include any other gender.
- 1.4 Words importing persons shall include corporations.
- 1.5 References to any law or regulation or part thereof shall be deemed to be references to that law or regulation as from time to time amended or re-enacted.
- 1.6 References to any time or date shall be of local time in the Cayman Islands.
- 1.7 References to Sections of the Law shall refer to those Sections as amended or their replacements (however numbered) from time to time.

##### **2. DEFINITIONS**

Unless the context otherwise requires, in this Trust Deed words or phrases defined in Section 3 of the Law shall have the same meanings in this Trust Deed as they have in the Law (as amended from time to time) unless otherwise defined herein;



<b>Accounting Date</b>	means 30th June in each year or any other date in each year as the Trustees may determine;
<b>Accounting Period</b>	means a period ending on and including an Accounting Date and commencing from the date of this Plan or from the calendar day next following the preceding Accounting Date (as the case may be);
<b>Age of Pension Entitlement Contribution Date</b>	means, in respect of a Member, the Contribution Date on or immediately following the Normal Pension Entitlement Date or, in respect of a Member electing to retire before his Normal Pension Entitlement Date under Clause 53 (Early Age of Pension Entitlement), the Contribution Date on or immediately following the date on which the Member has elected to retire or, in respect of a Member electing to retire after his Normal Pension Entitlement Date under Clause 55 (Late Age of Pension Entitlement), the Contribution Date on or immediately following the date on which the election under Clause 55.3 is made;
<b>Age of Pension Entitlement Member</b>	means a Member who receives payments from this Plan under Clause 53 (Early Age of Pension Entitlement) or 54 (Normal Age of Pension Entitlement) or 55 (Late Age of Pension Entitlement);
<b>Business Day</b>	means a day on which banks are open for business in the Cayman Islands or any other place as the Trustees may determine;
<b>Cayman Islands</b>	means the British Overseas Territory of the Cayman Islands;
<b>CI Dollar or CI\$</b>	means the currency of the Cayman Islands;
<b>civil partner and civil partnership</b>	have the meanings assigned to those terms in the Civil Partnership Act, 2020;
<b>Contributing Member</b>	means a Member in respect of whom regular contributions continue to be made to this Plan;
<b>Contribution Date</b>	means the first Business Day of each calendar month;
<b>Department of Labour and Pensions</b>	means the Department of Labour and Pensions in the Cayman Islands as established pursuant to the Law;
<b>Director</b>	means the Director of the Department of Labour and Pensions appointed pursuant to the Law and holding that office from time to time;
<b>Duties and Charges</b>	means all stamp and other duties, taxes, governmental charges (including any charges relating to the acquisition, holding or disposal of foreign currency), brokerage, bank charges, transfer fees, registration fees and other Duties and Charges whether in connection with the constitution and the

administration of this Plan, the creation, issue, sale or repurchase of Units, or the purchase, sale or acquisition of Investments or in respect of Units or otherwise which may have become or may be payable in respect of or before or on the occasion of the transaction or dealing in relation to which the Duties and Charges are payable;

<b>Effective Date</b>	means the Contribution Date on which an employer, self-employed or other person elects to join the Plan in accordance with Clause 4 (Participation and Eligibility) and on which Units are first issued;
<b>expenses</b>	means all remuneration, costs, charges, expenses, interest and other liabilities which shall include (without limitation) the remuneration and expenses of the Trustees and any agents or delegates of the Trustees;
<b>Extraordinary Resolution</b>	means a resolution passed at a meeting of Members by not less than two thirds of the Members present in person or by proxy who vote on the matter;
<b>the General Regulations</b>	means the National Pensions (General) Regulations (as revised);
<b>Inactive Member</b>	means a Member for whom the only contributions made, if any, are additional voluntary contributions;
<b>Income Payment Date</b>	means the sixth Contribution Date following the Age of Pension Entitlement Contribution Date and every sixth Contribution Date thereafter or such other date or dates as may be agreed between the Trustees and the Member concerned under a Retirement Savings Arrangement or otherwise;
<b>Initial Closing</b>	means 1 <sup>st</sup> April 2004;
<b>Initial Issue</b>	means the Initial Issue of Units by the Trustees in accordance with Clause 43 (Initial Issue);
<b>investment</b>	means any investment authorised by the Investment Regulations;
<b>the Investment Regulations</b>	means the National Pensions (Pension Fund Investments) Regulations (as revised);
<b>Issue Price</b>	means the price per Unit calculated under Clauses 44 (Issue of Units after Initial Closing) and 51 (Net Asset Value);
<b>the Law</b>	means the National Pensions Act (as revised) and as amended from time to time, and, where the context requires, all regulations and orders made pursuant thereto including without limitation the General Regulations, the Investment Regulations, the National Pensions (Actuarial and Fund Management) Regulations (as revised) and the Normal Age of Pension Entitlement Option Order, 2016 to the extent

	applicable to the Plan and as amended from time to time;
<b>Market Practice</b>	means a practice which in the opinion of the Trustees is common in the relevant financial markets;
<b>Member</b>	means the registered holder of a Unit including persons jointly so registered;
<b>Members' Resolution</b>	means a resolution passed at a general meeting of the Members by a bare majority of the votes cast by the Members present in person or by proxy;
<b>Net Asset Value</b>	means the value of all assets of this Plan less all liabilities and any provisions deemed prudent or necessary by the Trustees calculated in accordance with Clauses 46 (Calculation of Net Asset Value) and 51 (Net Asset Value) and "Net Asset Value per Unit" shall mean Net Asset Value divided by the number of Units outstanding;
<b>Normal Age of Pension Entitlement</b>	means the Member's: <ul style="list-style-type: none"> <li>(a) 65th birthday, or</li> <li>(b) 60th birthday where the Member: <ul style="list-style-type: none"> <li>(i) attains 60 years of age between 1 January 2017 and 31 December 2029 inclusive of those dates; and</li> <li>(ii) has opted for a normal age of pension entitlement of 60 years in accordance with the Law;</li> </ul> </li> </ul>
<b>Normal Pension Entitlement Date</b>	means the Contribution Date on or immediately following the Normal Age of Pension Entitlement;
<b>Original Trustee</b>	means RF Bank & Trust (Cayman) Limited;
<b>Pension Fund</b>	means the proceeds of issue of the Units and all the cash and other property and assets held or deemed to be held by the Trustees on trust as set out in this Plan and shall include the Statutory Fund and the Voluntary Fund;
<b>Plan</b>	means the unit trust constituted by and administered in accordance with this Trust Deed;
<b>Redemption Price</b>	means the price at which Units are redeemed as at any Contribution Date calculated in accordance with Clauses 67 (Redemption – General Provisions) and 51 (Net Asset Value);
<b>Register</b>	means the Register of Members required to be kept under the terms of Clause 49 (Ownership and Register);
<b>Retirement Savings Arrangement</b>	means an arrangement approved by the Director either

generally or in respect of a specific employee in respect of the redemption of Units and the payment of the proceeds to the employee concerned;

<b>Small Sum</b>	means the sum of CI\$5,000 (or its equivalent in US Dollars) or such other sum as shall be prescribed pursuant to Section 42 of the Law;
<b>Statutory Fund</b>	means the proceeds of the issue of the Units representing the compulsory contributions of the employer and the respective employees in accordance with the Law;
<b>Statutory Unit</b>	means a Unit issued in respect of employee or employer contributions required by the Law;
<b>Trustees</b>	means the Original Trustee and the Trustees for the time being of this Plan as the case may be;
<b>Unit</b>	means one equal undivided share in the Pension Fund into which the beneficial interests shall be divided and includes fractions of Units (save where the Pension Fund has been divided into sub-fund in accordance with Clause 40.4 in which event Units will be issued in respect of each such sub-fund and designated accordingly);
<b>United States and US</b>	means The United States of America, its territories and possessions;
<b>US Dollar, US\$ or \$</b>	means the currency of the United States;
<b>Valuation Date</b>	means the last Business Day of each calendar month and/or such other days being less frequently than monthly as may be determined from time to time by the Trustees;
<b>Voluntary Fund</b>	means the proceeds of the issue of Units representing the excess, if any, of the additional voluntary contributions of the employer and the respective employees over and above the minimum required by the Law from time to time;
<b>Voluntary Unit</b>	means a Unit issued in respect of additional voluntary contributions over and above those required by the Law or made by a person to whom the Law does not apply or who has made other arrangements for his compliance with the Law; and
<b>written or in writing</b>	means any method of representing or reproducing words in permanent visible form, whether in hard copy or electronic or other format.

#### GENERAL

### 3. POWER OF AMENDMENT

- 3.1 The Trustees may if they comply with Sections 12 to 14 and 21 of the Law at any time add to, alter or modify any or all of the provisions of this Trust Deed.

- 3.2 Subject to Section 12(7) of the Law the Trustees may, with the consent of the Director, make any changes to this Trust Deed as they may deem necessary or desirable.
- 3.3 The Trustees may give any undertaking to the Department of Labour and Pensions or the Director regarding this Plan as may be required and may adjust the rights of the Members to comply with that undertaking and the provisions of any undertaking given under this Clause shall be treated as part of this Trust Deed.

#### **4. PARTICIPATION AND ELIGIBILITY**

- 4.1 Any employer may, if approved by the Trustees, participate in this Plan from the Effective Date or from any date thereafter by means of a deed executed by or on behalf of the Trustees and the employer in question.
- 4.2 Every employee employed by an employer who has adhered to this Plan is eligible for membership of this Plan from the date of commencement of his employment and every employee who elects to join this Plan shall be eligible to become a Member.
- 4.3 Any self-employed person or other person may, if approved by the Trustees, participate in this Plan.
- 4.4 Every employer and self-employed or other person who wishes to adhere to this Plan and every employee who wishes to participate in this Plan shall complete such application forms and information returns as may, from time to time, be required by the Trustees or the Law.

#### **5. OPTIONS AND NOTICES**

- 5.1 Any option or right of election conferred on a Member shall be exercisable (subject to any alternative arrangements that the Trustees may decide) by notice in writing to the Trustees to be effected as stated in Clause 5.3.
- 5.2 Any notice to be given under this Plan by the Trustees to a Member or an employer may be given by sending the notice through the post in a letter addressed to him at his last known place of residence (and by airmail if the place of residence is outside the Cayman Islands). Any notice so sent shall be deemed to be served on the seventh day (but if posted by airmail then on the 14<sup>th</sup> day) following that on which it is posted.
- 5.3 Any notice under this Plan to be given to the Trustees shall be in writing and addressed to the Trustees at an office nominated by the Trustees (subject to the Trustees' discretion to make such other arrangements as they think fit). Any notice so sent if by post within the Cayman Islands shall be deemed served on the seventh day (but if posted by airmail from outside the Cayman Islands then on the 14<sup>th</sup> day) following that on which it is posted.
- 5.4 The Trustees may agree with any Member or Members to substitute email delivery of notices for notices sent by post.

#### **6. EVIDENCE OF ENTITLEMENT**

The Trustees may, before paying or applying any redemption proceeds, require any information from the person to whom or for whose benefit those proceeds may be payable or applied including the production of a certificate (or other appropriate evidence) of the birth or death of an individual or the identity of any person or any other material matter.

#### **7. EFFECTS OF MISINFORMATION**



If any person makes a false statement as to any of the matters referred to in this Trust Deed, the Trustees may, on discovering the fact, take such actions either in respect of any Units or benefits due to that person or otherwise or refrain from acting as they in their absolute discretion think fit.

**8. EMPLOYERS' ASSISTANCE**

Each employer shall as soon as is reasonably practical do everything in his power and give all information in his possession that the Trustees may request in connection with the administration of this Plan including, without prejudice to the generality of the foregoing, details of each employee and his/her spouse or civil partner, their ages, changes of address, termination of employment and details of all contributions for Statutory Units and Voluntary Units respectively.

**9. INCAPACITY TO MANAGE AFFAIRS**

9.1 The Trustees shall not be under any obligation to enquire into the capacity of any person and may presume a person has capacity until the Trustees have actual notice of incapacity.

9.2 The Trustees shall be under no obligation to see to the application of any redemption proceeds paid to any guardian, curator bonis or other trustee of the affairs of a Member and the receipt of the person or body to whom the redemption proceeds are paid shall be a complete discharge to the Trustees in respect of that payment.

**10. CLAIMS ONLY UNDER TRUST DEED**

No person shall have any claim, right or interest under this Plan or any claim against the Trustees or any employer except under the provisions of this Trust Deed PROVIDED ALWAYS THAT, in the event of any conflict between this Trust Deed and the mandatory provisions of the Law, the Law shall prevail.

**11. EXTENSION OF TIME LIMITS**

Subject to the Law, where any period or date is specified in the Trust Deed by way of a time limit, the Trustees may, on the written application of any person whom that time limit affects, extend the period or postpone the date in any particular case (subject to any conditions which the Trustees may think appropriate).

**12. AUDITOR, ACCOUNTS AND AUDITS**

12.1 Subject to the requirement for the approval of the Members under Clause 50.2 (Meetings of Members), the Trustees shall ensure that there is at all times an auditor who shall be appointed on such terms as the Trustees decide.

12.2 Subject to the terms agreed with any person appointed as the auditor under this Clause, the Trustees may remove the auditor from office provided the Trustees appoint a replacement.

12.3 The Trustees shall keep or cause to be kept proper books of account and records in which shall be entered all transactions for the account of this Plan. The Trustees shall cause to be prepared audited accounts of this Plan as at the Accounting Date. The first accounts shall be for the period from the date of this Plan to the first Accounting Date. The accounts of this Plan shall show the amount of any expenses or other remuneration paid to any person or institution to whom the Trustees have delegated powers or who has received payments.

12.4 A copy of the audited accounts of this Plan shall be made available on request to Members in accordance with Section 23 of the Law and the General Regulations.

**13. REVIEW OF ALLOCATION OF PENSION FUND**

The Trustees shall, in accordance with Section 5 of the Investment Regulations, review the allocation of the Pension Fund as at each monthly Valuation Date.

**14. TERMINATION OF CLAIMS AND RESPONSIBILITY**

14.1 No person shall have any claim on the Trustees or the Plan to the extent that:

- (a) the redemption proceeds have been paid to him or applied in accordance with this Trust Deed or the Law; or
- (b) a transfer payment has been made to another registered pension plan in respect of his benefits under this Trust Deed; or
- (c) an annuity or other prescribed Retirement Savings Arrangement has been purchased or established for him in accordance with the Law.

14.2 The Trustees shall not, in any way, be responsible for or bound to inquire into the use and application of any transfer payment from the fund which they make in relation to any person in accordance with this Plan.

14.3 The Trustees shall not, in any way, be responsible for the due performance of any obligations by or the creditworthiness of any person to whom redemption proceeds have been paid, including any transfer or payment to another registered pension plan or the provider of any annuity or other prescribed Retirement Savings Arrangement.

**15. UNCLAIMED UNITS**

Any Units not claimed or redeemed within 12 years of a Member's Normal Pension Entitlement Date may, with the consent of the Director, be cancelled in the event that, after due enquiry at the address(es) filed with the Trustees, they are unable to locate the Member, any spouse or civil partner or dependent children of the Member or any trustee or personal representative or executor thereof and the amounts representing those Units shall revert to the Pension Fund for the benefit of the Members.

**16. BREAKDOWN OF MEMBER'S MARRIAGE OR CIVIL PARTNERSHIP**

Section 43 of the Law shall apply in the event of financial settlement between a Member and his spouse or civil partner on breakdown of marriage or civil partnership, as the case may be.

**17. PROTECTION OF MEMBER'S UNITS**

Sections 55 to 57 of the Law (void transactions and exemption from seizure) shall apply to the Units held by a Member.

**18. PROPER LAW AND JURISDICTION**

This Trust Deed shall in all respects be governed by and construed in accordance with the laws of the Cayman Islands, the courts of which shall be the forum for the administration of this Plan and all the Members and the Original Trustee hereby submit to the exclusive jurisdiction of such courts.

## THE TRUSTEES AND ADVISORY COMMITTEE

### 19. APPOINTMENT AND RETIREMENT OF TRUSTEES

- 19.1 There shall at all times be a Trustee or Trustees of this Plan in accordance with Section 8 of the Law. The administration and management of this Plan shall be carried out by the Trustees in accordance with this Trust Deed and for the purposes of the Law the Trustees shall be the administrator of this Plan without prejudice to the powers of the Trustees to delegate functions in accordance with the Law and this Trust Deed.
- 19.2 Subject to any arrangements from delegation made from time to time by the Trustees, the Trustees shall take responsibility for the day-to-day administration of the Plan, including:
- (a) maintaining financial records of contributions from and payments to each Member;
  - (b) maintaining the Register of Units issued and redeemed in respect of the Plan;
  - (c) administering day-to-day contacts and queries from Members and Inactive Members;
  - (d) attending to routine correspondence with the Director, in particular, with regard to settling Retirement Savings Arrangements in respect of individual Members;
  - (e) preparing financial statements and liaising with auditors in the preparation of the audited financial statements; and
  - (f) presenting information to the Members and employers as may be required by Law from time to time.
- 19.3 A Trustee may, subject to the Law, be removed from the office by an Extraordinary Resolution of the Members provided that a successor Trustee or Trustees are engaged where necessary to ensure continued compliance with Section 8 of the Law.
- 19.4 A Trustee may resign and be fully discharged from all future duty or responsibility under this Plan by giving not less than 30 days' notice in writing addressed to the Continuing Trustees stating the date on which his resignation is to take effect and his resignation shall take effect on that date or on such earlier date as may be agreed by the Continuing Trustees and the Resigning Trustee.
- 19.5 A Trustee may resign and be fully discharged from all future duty or responsibility under this Plan by giving not less than 30 days' notice in writing addressed to the employers and the Members stating the date on which his resignation is to take effect and his resignation shall take effect on that date provided that a successor Trustee has been appointed in accordance with Section 8 of the Law on or before that date or, if not, such resignation shall take effect on such subsequent date on which such successor Trustee is appointed.
- 19.6 A Trustee shall be automatically removed from office if, being an individual, he is found to be a lunatic or of unsound mind or if he becomes subject to the bankruptcy laws of the jurisdiction in which he is resident or if, being a company, it shall enter into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction).
- 19.7 In the event of the death of a Trustee, his heirs, executors and administrators shall have no duties, responsibilities or liabilities under this Plan and the trusteeship of that Trustee shall be automatically terminated on his death.



19.8 In the event of the death, resignation, removal or incapacity of a Trustee, that Trustee shall be fully discharged from all future responsibilities and duties and shall incur no future liabilities as a Trustee under this Plan.

19.9 An outgoing Trustee which has resigned or been removed shall as soon as reasonably practicable after the resignation or removal turn over to the other Trustees or the successor Trustees the Pension Fund and any and all records, books, documents, moneys and other property and assets in his possession that form part of this Plan or were incidental to his duties as a Trustee under this Plan and relating to the administration of this Plan.

## **20. EXERCISE OF CORPORATE POWERS**

20.1 Any Trustee that is a corporation or any employer may exercise or concur in exercising any power, right or discretion hereby or by law conferred on that Trustee or employer by resolution of that corporation or its board of directors or governing body or may delegate the right and power to exercise or concur in exercising that power, right or discretion to any one or more of its directors or officers or employees or to any other person or persons.

20.2 Except where the Law or the provisions of this Trust Deed expressly require a deed, a copy of a resolution of the board or committee referred to in Clause 20.1 that has been signed by the chairman of the meeting shall be sufficient evidence of the exercise of the power, right or discretion involved.

## **21. TRUSTEES' MEETINGS**

21.1 If there shall be more than one Trustee at any time:

- (a) the Trustees shall meet to transact business and otherwise regulate their meetings and proceedings as they think fit;
- (b) the quorum necessary for the transaction of the business of the Trustees shall be such number as may be fixed from time to time by the Trustees;
- (c) the Trustees shall elect a chairman from amongst themselves who shall hold office until he is replaced by the election of another chairman;
- (d) a decision reached by a majority of the Trustees voting on the matter at a meeting duly convened shall be sufficient to bind the minority;
- (e) a meeting of the Trustees may be convened on five days' notice by any two Trustees or within such shorter period as the Trustees shall in their absolute discretion determine; and
- (f) all meetings shall be held in the Cayman Islands provided that one or more Trustees may attend by conference telephone call.

## **22. DISCLOSURE OF CONFLICT OF INTEREST**

Subject to the terms of the Law and to the extent permissible under the Law, any Trustee who is in any way, whether directly or indirectly, interested in a contract, proposed contract or transaction to be entered into by the Trustees shall declare the nature and details of his interest at a meeting of the Trustees. To the extent required by the Law, that interest shall also be disclosed to the Members and employers. A Trustee may not vote in respect of any contract or proposed contract or arrangements that he may be interested in and, if he does so, his vote shall not be counted but he may be counted in the quorum at any meeting of the Trustees at which that contract or those proposed contracts or arrangements shall come before the meeting for consideration PROVIDED ALWAYS THAT a sole

Trustee may continue to act notwithstanding such a conflict with the consent of the Director or a Members' Resolution.

### **23. EMPLOYMENT OF AGENTS**

- 23.1 Subject to the terms of Section 17 of the Law, the Trustees may employ any person, institution, firm or body corporate as an agent on such terms and conditions and for such periods and at such remuneration as the Trustees shall think fit to transact any business regarding this Plan and the Trustees may delegate the exercise of any of their powers and duties under this Plan to any such person or persons that they may select and shall have the power to grant such indemnities and exculpations to such delegates as they in their absolute discretion shall think fit.
- 23.2 The Trustees shall, at every annual general meeting of this Plan, present to the Members details of the person or persons to whom the Trustees have delegated any of their powers and duties under this Plan with details of the terms of that delegation.
- 23.3 Without prejudice to the generality of the foregoing, the Trustees may, subject to the Investment Regulations, delegate the power to manage on a discretionary basis the investment of the Pension Fund to one or more investment managers and may engage one or more advisors (including one or more of the investment managers) to advise the Trustees as to the allocation of the Pension Fund between such investment managers.
- 23.4 The Trustees may invest and hold, or allow to remain in the name of any person as nominee or custodian for the Trustees, any assets comprised in the Plan on whatever terms the Trustees think fit.
- 23.5 The Trustees shall not be liable for the actions taken by any agent engaged in accordance with this Clause or for following the advice of any advisor so engaged.

### **24. PARTICIPATING IN CURRENT MARKET PRACTICES**

Subject to the Law and the Investment Regulations the Trustees may (or permit any investment manager to) lend investments to any person or body and participate in any other Market Practice in which, in the determination of the Trustees, it may be advantageous or usual or customary to participate.

### **25. VOTING RIGHTS**

- 25.1 All rights of voting conferred by an investment shall be exercised in such manner as the Trustees may in their absolute discretion think fit. The Trustees in their absolute discretion may refrain from exercising any voting rights. No Member shall have any right to interfere or complain in relation to the exercise of failure to exercise any voting rights. The Trustees may delegate the power to exercise the rights of voting or other rights conferred by an investment to any investment manager or advisor.
- 25.2 The Trustees shall exercise any voting rights according to what they consider to be the best interests of the Members. No Trustees shall, however, be under any liability or responsibility in respect of any vote, action or consent given or taken (or not given or taken) whether in person, by representative, by attorney or by proxy. Subject to Clause 28 (Exculpation for Trustees), none of the Trustees nor any representative, proxy or attorney of any of the Trustees shall incur any liability or responsibility because of any error of law or mistake of fact or any matter or thing done or omitted or any approval voted or given or withheld.
- 25.3 The phrase "rights of voting" or the word "vote" used in this Clause shall be deemed to include not only a vote at a meeting but also any consent to or approval of any arrangement, scheme or

resolution or any alteration in or abandonment of any rights attaching to any investments of this Plan and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement.

- 25.4 The Trustees may delegate to any investment manager or investment managers appointed in respect of the Pension Fund, the right to determine at their discretion the exercise of rights of voting in respect of the investments comprising the Pension Fund.

## **26. REMUNERATION OF TRUSTEES AND AGENTS**

- 26.1 Without prejudice to Clause 26.3, the Trustees shall be entitled to reimbursement for reasonable expenses, including, without prejudice to the generality of the foregoing statutory filing fees and taxes paid in respect of the Plan, audit and legal fees, postage, telephone, printing and publication costs and custodian, banking and brokerage charges.
- 26.2 Any investment manager, advisor or other agent or delegate shall be entitled to receive from the Pension Fund such remuneration (if any) as may be agreed in writing from time to time with the Trustees together with all reasonable out of pocket expenses.
- 26.3 Any Trustee or any person affiliated to or associated with any Trustee may act as banker or custodian or provide other services to the Trustees as Trustees of the Plan on the same terms as would be made with a customer to the extent permitted by the Law without accounting for any resultant profit.
- 26.4 The Original Trustee shall be entitled to charge to the Pension Fund an annual fee of 1.1 per cent of the Net Asset Value of the Pension Fund calculated at each Valuation Date as the appropriate proportion (depending on the period since the last Valuation Date) of 1.1 per cent of the Net Asset Value of the Pension Fund as at that date and payable within seven days thereof. The fee of the Original Trustee for part of a period between Valuation Dates shall be pro-rated on a *per diem* basis. Any net increase to such remuneration shall require the prior approval of a Members' Resolution.
- 26.5 The fees of any new Trustee or Trustees shall be approved by Members' Resolution on its appointment in accordance with Clause 19 unless there shall be no net increase to the fees payable to the Trustees further to such appointment.
- 26.6 The fees of the Trustees may be increased from time to time with the authority of a Members' Resolution.

## **27. PERSONAL COMMITMENTS BY THE TRUSTEES**

The Trustees shall not be obliged to enter into any personal commitment which in their determination (and that determination shall be binding on the Members) is not sufficiently secured by the indemnity out of the Pension Fund or the Trustees' right of recourse to the Pension Fund as conferred by the provisions of this Plan.

## **28. EXCULPATION FOR TRUSTEES**

- 28.1 Subject to the mandatory provisions of Section 17 of the Law, no Trustee shall be under any liability for anything done or omitted to be done unless done or omitted to be done with the actual negligence, wilful misconduct or fraud of that Trustee. Further and (without prejudice to the generality of the foregoing):
- (a) no Trustee shall incur any liability in respect of any action taken or things suffered by him in reliance on any notice, resolution, direction, consent, certificate, affidavit, statement, certificate of stock, plan of reorganization or other document or title or other paper or

document reasonably believed by him to be genuine and reasonably believed to have been passed, sealed or signed by the proper parties;

- (b) no Trustee shall be responsible for the authenticity of any signature on or any seal affixed to any endorsement on any certificate or document affecting the title to or transmission of Units or be in any way liable for any forged or unauthorised signature on or seal affixed to any endorsement, form or other document or for acting on or giving effect to any forged or unauthorised signature or seal;
  - (c) the Trustees shall not be liable to account to any Member or otherwise for any payment made or suffered by the Trustees in good faith and in the absence of wilful default, fraud or negligence to any duly empowered fiscal authority of any jurisdiction for Duties and Charges or other taxes or charges or other assessments in any way arising out of or relating to any transaction of any nature under the provisions of this Plan notwithstanding that the payments ought not to be or need not have been made or suffered;
  - (d) the Trustees may act on any advice of or information obtained from any accountants, brokers, lawyers, agents, investment managers or advisers or other persons acting as agents or advisers to or of the Trustees and no Trustee shall be liable for anything done or not done in reliance on that advice or information unless owing to the actual negligence, wilful misconduct or fraud of that Trustee and no Trustee shall be responsible for any misconduct, mistake, oversight, error of judgment or want of prudence on the part of that accountant, broker, lawyer, investment manager or adviser, agent or other person; and
  - (e) any advice or information may be obtained or sent by any form of electronic communication and the Trustees shall not be liable for acting on any advice or information purported to be conveyed by that form of electronic communication even where it contains an error or is not authentic.
- 28.2 No Trustee shall be under any obligation to appear in, prosecute or defend any action or suit in respect of the provisions of this Plan or in respect of the Pension Fund or any part of it or any corporate or shareholders' action which, in his opinion, would or might involve him in expense or liability unless that Trustee is satisfied that he will have adequate recourse to the Pension Fund in respect of any such expenses or liability.
- 28.3 The Trustees, with the approval of the employer, may purchase liability insurance for their benefit at the expense of the Pension Fund.

## **29. INDEMNITY FOR TRUSTEES - NON-RECOURSE**

- 29.1 Without prejudice to any other provisions of this Trust Deed exonerating the Trustees from liability or providing them with an express indemnity from the Pension Fund, the Trustees shall be entitled, for the purpose of indemnity against actions, costs, claims, damages, expenses or demands to which they may be put as Trustees in connection with this Plan and the proper performance of their powers and duties under this Plan, to have recourse to the Pension Fund except in respect of any action, cost, claim, damage, expense or demand that results from any act or omission caused by the wilful misconduct, fraud or actual negligence of the Trustees or reckless disregard by the Trustees of their duties under this Trust Deed or the Law.
- 29.2 The Trustees' right of indemnity pursuant to Clause 29.1 is limited to the Pension Fund and the liability of any Member under this Plan is limited to the amount that the Member contributes (directly or through his employer) to the Pension Fund in the purchase of Units. For the avoidance of doubt, and subject to the aforesaid the Trustees shall not be entitled to any personal indemnity from any Member past or present.

**30. OTHER TRUSTS**

Any of the Trustees may establish or act as Trustee for any other trusts, separate and distinct from this Plan, provided the operation of and information relating to this Plan and its employers and Members is kept confidential.

**31. CONFIDENTIALITY**

Unless disclosure is required by the Director or any other competent governmental, regulatory or judicial authority, the Trustees shall keep confidential all information relating to this Plan and shall only disclose any such information in accordance with the provisions of this Trust Deed.

**32. RESOLVING DOUBTS AND DISPUTES**

32.1 The Trustees may refer any points of difficulty in the interpretation of the Law to the Director and may rely upon the practice of the office of the Director without any liability to any person for doing so.

32.2 The Trustees may settle, compromise or submit to arbitration any claim or dispute relating to this Plan and the Arbitration Act, 2012 shall apply to any such arbitration.

32.3 Any arbitrator under Clause 32.2 shall be as agreed by the parties to the dispute, or failing agreement, as named by the President for the time being of the Cayman Islands Legal Practitioners Association.

**33. DEDUCTION OF TAX**

The Trustees may deduct from any payment made under this Plan a sum equal to any tax for which they become liable as a result of that payment.

**34. POWER TO INSURE**

The Trustees may insure any asset comprised in the fund on such terms as they think fit. Any insurance money received shall be used by the Trustees to restore the asset concerned or (if the asset cannot be restored) shall be applied by the Trustees as if it were the proceeds of sale of the asset.

**35. TRUSTEES MAY BENEFIT**

Any person shall be entitled absolutely to his rights under this Plan regardless of whether he is a Trustee (or a director, employee or Member of a corporate Trustee) of this Plan without any necessity to comply with the requirements set out in Clause 22.

**36. ADVISORY COMMITTEE**

An advisory committee may be appointed in accordance with Section 19 of the Law.

**CONTRIBUTIONS****37. CONTRIBUTIONS**

37.1 Each employer shall pay to the Trustees contributions in respect of each of its employees who is a Member of the Plan, being both the contribution due from the employer and the contribution due from the Member as in compliance with the Law on each applicable Contribution Date which contributions shall be applied to the acquisition of Statutory Units in the name of the employee.



- 37.2 Each self-employed person or other person who has adhered to this Plan under Clause 4 (Participation and Eligibility) shall pay to the Trustees contributions in compliance with the Law on each applicable Contribution Date which contributions shall be applied to the acquisition of the Statutory Units in the name of such self-employed or other person who has adhered to this Plan.
- 37.3 A Member (or an employer or other person on his behalf) may pay additional voluntary contributions to be applied to the acquisition of Voluntary Units for the credit of his account whether by one or more single payments directly to the Trustees or by instructing his employer to make deductions from his salary or wages. Any Member may suspend, reduce or terminate his additional voluntary contributions. Voluntary Units acquired by additional voluntary contributions shall, save as specifically stated herein, be dealt with under this Plan in the same way as Statutory Units acquired by compulsory contributions.
- 37.4 Total contributions in respect of each employee shall not exceed US\$50,000 annually or such other figure as may be prescribed by the Trustees from time to time.

### **38. RECEIPT OF CONTRIBUTIONS**

Contributions, including additional voluntary contributions, shall be paid to a bank account nominated by the Trustees in cleared funds on or before 12 noon three Business Days preceding the Contribution Date. If contributions, including additional voluntary contributions, are not received in good time, the Trustees may apply those contributions in the purchase of Units on the next succeeding Contribution Date at the Issue Price on that Contribution Date. If the Trustees earn interest on contributions pending application such interest shall accrue to the Pension Fund and not to the contributors.

### **39. RECEIPT OF TRANSFERS**

- 39.1 The Trustees may accept into this Plan a transfer payment from an administrator of another registered pension plan to which a person formerly contributed.
- 39.2 Where a transfer is so received, the Trustees shall obtain a certificate from the administrator of the transferring plan setting out the cash value of the transfer and indicating the amounts attributable to the employer's contributions, the employee's contributions and any additional voluntary contributions (where applicable), made on behalf of the employee under the transferring plan. Cash received in respect of a transfer of benefit shall be used by the Trustees to subscribe for the appropriate number of Voluntary Units and Statutory Units in this Plan for issue to the person in respect of whom the transfer is made at the Issue Price on the next succeeding Contribution Date following receipt provided full payment in cleared funds is received no later than 12 noon three Business Days before that Contribution Date. If payment is not received in good time, the Trustees shall apply that payment in the purchase of Units at the next following Contribution Date at the Issue Price on that Contribution Date. If the Trustees earn interest on the cash received in respect of a transfer pending application such interest shall accrue to the Pension Fund and not to the prospective Member.
- 39.3 The Trustees may at any time accept a transfer into this Plan of all or any of the assets of another registered pension plan and if so the individuals to whom the transfer relates shall be treated (if they are not already) as Members (except that no contributions shall be required for retired employees or surviving spouses or surviving civil partners who become Members).

## UNITS AND NET ASSET VALUE

### 40. UNITS AND MONEYS UNDER THIS PLAN

- 40.1 The number of Units to be issued by the Trustees under this Plan shall be unlimited and shall be without par value.
- 40.2 Subject to Clause 40.4, no Unit shall confer on a Member any interest or undivided share in any particular part of the Pension Fund nor shall any Member have any rights whether in contract or otherwise against the Trustees beyond the value of his Units.
- 40.3 All moneys forming part of the Pension Fund shall be held or invested by the Trustees in accordance with the provisions of this Trust Deed.
- 40.4 The Trustees may, from time to time, divide the Pension Fund into separate sub-funds to which, subject to the Law and the Investment Regulations, different investment policies may be applied. Where such segregated sub-funds are established, Units issued in respect of them shall be clearly designated as referable thereto PROVIDED THAT in respect of any segregated sub-fund in respect of which Units are only issued to and held by Members who are not subject to the provisions of the Law, the Investment Regulations shall not apply.

### 41. THIS PLAN TO BIND AND BENEFIT MEMBERS AND OTHER PERSONS

The terms and conditions of this Plan shall be for the benefit of and be binding on each Member and all persons claiming through or under him as if each Member and those other persons had been a party to and had executed this Plan and as if each Member and those other persons had covenanted to observe and be bound by all the provisions of this Plan and had authorised the Trustees to do all acts and things as this Plan may or shall require the Trustees to do or which the Trustees shall do in accordance with this Plan.

### 42. INVESTMENT OF THE PENSION FUND

- 42.1 All contributions received by the Trustees in respect of the issue of Units, investments, income, profits or gains arising from or attributable to that issue shall form part of the Pension Fund and shall be paid to the Trustees or to a nominee or custodian to the order of the Trustees subject to the provisions of this Trust Deed for the benefit of the holders of the Units.
- 42.2 The Trustees shall apply or cause to be applied the assets of this Plan in the acquisition or purchase of investments in the manner generally specified in the Law.
- 42.3 The Trustees may, subject to the Law and the Investment Regulations, delegate the management of investments to such person or persons on such terms (including terms as to remuneration and indemnity) as they think fit.
- 42.4 Any investment held by this Plan may be realised in order to provide funds in cash which are properly required for the purposes of this Plan or in order to retain the proceeds of sale in cash or on current or deposit account or partly for one of those purposes and partly for another.

### 43. INITIAL ISSUE

The Initial Issue Price of a Unit issued at the Initial Closing shall be US\$10.00 or any other price as determined by the Trustees. Units shall be offered at this Initial Issue Price until the Initial Closing.

**44. ISSUE OF UNITS AFTER INITIAL CLOSING**

The Issue Price per Unit in respect of Units issued after the Initial Issue shall be calculated by dividing the Net Asset Value of the Pension Fund on the relevant Contribution Date by the number of Units in issue at the opening of business on that Contribution Date. The Issue Price shall be the amount equal to that Net Asset Value per Unit. The Issue Price shall be the resulting sum adjusted to the nearest US\$0.0001.

**45. CURRENCY OF SUBSCRIPTION MONEYS**

The price of Units shall for all purposes be calculated in US Dollars and paid in either US Dollars or CI Dollars converted at such rate as may be specified by the Trustees from time to time.

**46. CALCULATION OF NET ASSET VALUE**

The Trustees shall calculate the issue and Redemption Price of Units on each Contribution Date in accordance with Clause 51 (Net Asset Value) based upon the Net Asset Value per Unit as at the last preceding Valuation Date and such price shall be made available to the Members in such manner as the Trustees shall from time to time, deem appropriate.

**47. SUSPENSION OF ISSUES, REDEMPTIONS AND CALCULATION OF REDEMPTION PRICE**

47.1 The determination of Net Asset Value and the issue and redemption of Units may be suspended by the Trustees during:

- (a) any period when any market or stock exchange, which is the principal market or stock exchange on which a material part of the investments are quoted, is closed (other than for ordinary holidays) or during which dealings are substantially restricted or suspended; or
- (b) the existence of any state of affairs which constitutes an emergency as a result of which disposal of investments by or on behalf of the Trustees would be impracticable; or
- (c) any breakdown in the means of communication normally employed in determining the price of any of the investments or the current prices on any market or stock exchange; or
- (d) any period when remittance of moneys which shall or may be involved in the realisation of or in the payment of any of the investments is not possible; or
- (e) on the occurrence of any event causing this Plan to liquidate substantially (as determined by the Trustees in their absolute discretion) or terminate or on the order of any governmental authority of the Cayman Islands.

47.2 The Trustees shall notify all Members in writing of any suspension within seven days of its occurrence and shall notify them promptly of the end of that suspension.

47.3 The Trustees may, during the period of any suspension, decline to issue or redeem Units until the Contribution Date next following the Valuation Date after the suspension has ended. Alternatively, at the discretion of the Trustees, Units may be issued and redeemed on the basis of the Net Asset Value per Unit as at the last preceding Contribution Date on which a valuation was available.

**48. MEMBER TO BE TREATED AS ABSOLUTE OWNER SUBJECT TO PLAN**

A Member, as determined on the Register, shall be the only person recognised by the Trustees as having any right, title or interest in or to a Unit and the Trustees shall be entitled to recognise the Member recorded on the Register as the owner of the Units subject to this Plan and not be bound by



or compelled in any way to recognise (even with actual or constructive notice and notwithstanding any enquiries which the Trustees shall be required to make or shall have made concerning the beneficial ownership of Units registered or to be registered in the name of a nominee) any equitable, contingent, future or partial interest in any Units except as required by this Plan or by the Law or by the order of any court of competent jurisdiction.

#### **49. OWNERSHIP AND REGISTER**

49.1 A Register of Members shall be kept which shall contain the following information:

- (a) the full names and addresses of the Members;
- (b) the number of Units held by each Member as Voluntary Units and as Statutory Units;
- (c) the date on which each Member was entered in the Register as Member; and
- (d) a record of any transfer from a deceased Member to his surviving spouse or civil partner under Clause 56 (Death leaving surviving spouse or civil partner) or to his executor or personal representative.

49.2 The Register shall be kept by or under the control of the Trustees.

49.3 The receipt of a Member (or, if there are joint Members, of any one of those joint holders) for any moneys payable in respect of any Unit shall be a good discharge to the Trustees.

#### **50. MEETINGS OF MEMBERS**

50.1 The Trustees shall convene a general meeting of Members at least once in each calendar year as the annual general meeting of this Plan in accordance with the following provisions and shall specify the meeting as such in the notice calling the meeting. The Trustees may convene such other meetings of the Members as they think fit or on receipt of a request in writing by 10 per cent or more (by number) of the Members and shall convene those meetings at such other times and places as they think fit in accordance with the notice, the Law and this Clause, subject always to the requirements of Section 12 of the Law and Section 7 of the General Regulations in circumstances where they are applicable.

50.2 The Members shall at the annual general meeting of this Plan:

- (a) meet to consider and approve the financial statements of this Plan for the preceding Accounting Period;
- (b) receive a report from the Trustees on the terms and remuneration agreed with any agents or delegates to whom the Trustees have delegated material powers in respect of the administration of this Plan in the preceding Accounting Period;
- (c) approve the appointment of auditors in accordance with Clause 12 (Auditor, accounts and audits);
- (d) receive a report from the Trustees or any investment manager(s) or adviser(s) appointed by the Trustees in respect of the investment returns of the Pension Fund (including performance relative to applicable benchmarks determined by the Trustees from time to time); and
- (e) deal with such other matters as may be required by the Law.

- 50.3 The general meeting may consider such other business as may be presented by the Trustees and stated in the notice of the meeting delivered to the Members.
- 50.4 A written notice of every meeting (specifying the place, day and hour of the meeting and the terms of any resolution to be proposed at the meeting) shall (subject to the requirements of Section 12 of the Law and Section 7 of the General Regulations if applicable) be posted to each Member and employer at least 21 days before the date specified in the notice for the meeting. The accidental omission to give notice to or the non-receipt of notice by any Member shall not invalidate the proceedings at any meeting. Any director or other authorised official of any incorporated Trustee shall be entitled to attend and speak at any meeting.
- 50.5 The quorum requirement shall be five Members in person or by proxy.
- 50.6 A person (who need not be a Member) nominated in writing by the Trustees shall act as chairman of any meeting and, if no such person is nominated or if at any meeting the person nominated shall not be present within 15 minutes after the time appointed for holding the meeting, then the Members present shall choose one of their number to be chairman.
- 50.7 At any meeting any resolution put to the vote of the meeting shall be decided by a vote which shall be taken in writing. The result of a vote shall be deemed to be the resolution of the meeting. Each Member present in person or by proxy shall be entitled to one vote.
- 50.8 The chairman may with the consent of any meeting (and shall if directed by the meeting) adjourn the meeting to any other time and place and no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.
- 50.9 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney authorised in writing. A person appointed to act as a proxy need not be a Member.
- 50.10 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a certified copy of that power or authority shall be presented to the Trustees at least 48 hours in advance of the meeting (or such shorter period as may be specified by the Trustees in the notice of the meeting) at which the person named in the instrument proposes to vote and, in default, the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after one year from the date recorded in it as the date of its execution.
- 50.11 An instrument of proxy may be in the following form or in any other form which the Trustees may approve:
- "I [ ] of [ ] being a Member of the registered Plan known as The RF Pension Plan appoint [ ] of [ ] as my proxy to vote for me and on my behalf at the meeting of Members of this Plan to be held on the [ ] day of [ ] and at any adjournment of that meeting.
- As witness my hand this [ ] day of [ ]."
- 50.12 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous revocation of the proxy or of the power of attorney or other authority under which the proxy was signed or the transfer of the Units in respect of which the proxy is given provided no intimation in writing of the revocation or transfer has been received by the Trustees before the start of the meeting or adjourned meeting at which the proxy is used.

- 50.13 Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be provided for that purpose by the Trustees at the expense of the Pension Fund and any minutes purporting to be signed by the chairman of the meeting shall be conclusive evidence of the matters stated in them and, until the contrary is proved, every meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed at that meeting to have been duly passed.
- 50.14 A Members' Resolution or an Extraordinary Resolution shall be binding on all Members whether present (in person or by proxy) or not present at the meeting and each of the Members and the Trustees (subject to the provisions relating to indemnity contained in this Plan) shall be bound to give effect to the resolution accordingly.
- 50.15 When, at any time, the Pension Fund has been divided and held in segregated sub-funds pursuant to Clause 40.4, where a matter arises concerning only the Members of one or more of such sub-funds, the applicable resolution may be passed separately by votes of the Members in each sub-fund affected at a meeting convened and held in accordance with this Clause 15 to which all of the aforesaid provisions shall apply with the exception that only Members of the relevant sub-fund shall be entitled to notice and to attend and vote thereat.

## **51. NET ASSET VALUE**

- 51.1 This Clause shall apply to the calculation of the Net Asset Value of the Pension Fund or the Net Asset Value per Unit.
- 51.2 The Trustees shall determine the Net Asset Value as at the close of business on the Valuation Date immediately preceding the relevant Contribution Date in accordance with the following provisions:
- (a) The Net Asset Value of the Pension Fund shall be the value as at such date of all the assets of the Pension Fund less all the liabilities of the Pension Fund.
  - (b) The assets of the Pension Fund shall be deemed to include:
    - (i) all stocks, shares, debentures, securities and financial instruments;
    - (ii) all securities owned or contracted for in respect of the Pension Fund;
    - (iii) all cash on hand, on deposit, or on call including any interest accrued thereon;
    - (iv) all bills, demand notes, promissory notes and accounts receivable;
    - (v) all stock and cash dividends and cash distributions to be received by the Pension Fund and not yet received by it but declared payable to shareholders of record on a date on or before the days as of which the Net Asset Value is being determined;
    - (vi) all interest accrued on any interest-bearing securities owned by the Plan up to the normal settlement date for such securities except to the extent that the same is included or reflected, the principal value of such security;
    - (vii) all other investments of the Pension Fund; and
    - (viii) all other assets of the Pension Fund of every kind and nature, including prepaid expenses and unamortised set up costs as valued and defined from time to time by the Trustees.

- (c) Without prejudice to paragraph (d) below, the value of any Units in any investment fund (whether in non-corporate or corporate form) shall be the latest mid-market price published by or on behalf of such fund thereof prior to, or coinciding with the date of, the relevant calculation of the Net Asset Value of the Pension Fund. The Trustees shall have discretion to use the offer or bid price of any investment fund, in calculating the Net Asset Value of the Plan.
- (d) The value of any securities listed on an exchange or traded through market makers may be their last reported mid-market, closing or bid prices, as determined from time to time by the Trustees or their agents using such reporting services as they may deem fit.
- (e) The value of any cash on hand, on deposit, pre-paid expenses, cash dividends and interest declared or accrued and not yet received shall be deemed to be the full amount thereof unless in any case the Trustees are of the opinion that the same is unlikely to be paid or received in full in which case the value thereof shall be subject to such adjustment as the Trustees may consider appropriate in such circumstances to reflect the true value thereof.
- (f) The value of any demand notes, promissory notes and accounts receivable shall be deemed to be the face value or full amount thereof after making such adjustment as the Trustees may consider appropriate to reflect the true current value thereof.
- (g) Certificates of deposit, treasury bills, bank acceptances and trade bills shall be valued (on the basis of a notification to the Trustees by a person approved by the Trustees for the purposes of this paragraph whose business includes dealing in or effecting transactions in the relevant investment) according to the normal dealing practice therein and at the price of the relevant investment at the close of business on the Valuation Date.
- (h) Any investment or asset held by the Pension Fund for which no particular method of valuation is provided in this Clause, or if in any case under this Clause a particular investment or asset is not or cannot be valued as above provided, the method of valuation of the relevant investment or asset shall be determined by the Trustees in consultation with the Plan's auditors or their investment managers or advisers.
- (i) Notwithstanding the foregoing provisions of this Clause, where at the time of any valuation, any asset of the Pension Fund has been realized or contracted to be realized, there shall be included in the calculation of the Net Asset Value in place of such assets the net amount received or receivable by the Plan in respect thereof PROVIDED THAT if the net amount receivable is not payable until some future date the Trustees shall make such adjustment as they consider appropriate to reflect the true current value thereof.
- (j) Any valuation made pursuant to this Clause shall be binding on all persons.
- (k) The liabilities of the Plan shall be deemed to include:
  - (i) all bills, notes and accounts payable;
  - (ii) all administrative expenses payable and/or accrued;
  - (iii) all known liabilities present and future for which provisions would be required to be made in the Plan's accounts in accordance with International Financial Reporting Standards and the Law, including contractual obligations for the acquisition of investments or other property;
  - (iv) accrued incentive fees, if any; and



- (v) any outstanding payments due on any Units previously redeemed.
  - (l) In determining the amount of such liabilities the Trustees may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance, and accrue the same in equal proportions over any such period.
- 51.3 For the purposes of this Clause:
- (a) the proceeds of issue of Units for which applications have been made shall be deemed to be an asset of the Pension Fund as of the time at which such Units are first deemed to be in issue;
  - (b) the amount due to Members in respect of Units to be redeemed, if any, shall, from the close of business on the day on which they are actually redeemed until such price is paid, be deemed to be a liability of the Pension Fund; and
  - (c) investments, cash balances and other assets of the Pension Fund shall be valued and liabilities of the Fund shall be calculated in US dollars.
- 51.4 The Trustees and their delegates shall not be under any liability if a price believed to be the lowest market dealing offered price or the highest market dealing bid price for the time being may be found not to be such nor for any inaccuracies in valuations based on information provided by reputable pricing sources.
- 51.5 If the Trustees consider any of the above bases of valuation to be inappropriate in any particular case or generally, then they may adopt any other valuation or valuation procedure they may, in consultation with the Plan's auditors, investment advisers or managers, consider to be reasonable in the circumstances.
- 51.6 At any time when the Pension Fund has been divided into segregated sub-funds in accordance with Clause 40.4, the calculation of Net Asset Value per Unit shall be applied separately in respect of each such segregated sub-fund.

#### **DISCLOSURE OF INFORMATION AND DOCUMENTS**

##### **52. DISCLOSURE OF INFORMATION AND DOCUMENTS**

- 52.1 The Trustees shall provide, in writing, to each person who is eligible or is required to become a Member of the Plan the information required by Section 20 of the Law.
- 52.2 The Trustees shall make available to each Member at least semi-annually a written statement containing the information required by Section 22 of the Law and Section 15 of the General Regulations.
- 52.3 The Trustees shall make arrangements to ensure that each Member shall have rights of inspection and copy documentation in accordance with Section 23 of the Law.

#### **REDEMPTION OF UNITS**

##### **53. EARLY AGE OF PENSION ENTITLEMENT**

- 53.1 A Member may, subject to Section 33 of the Law, on termination of his employment retire at any time after the Contribution Date on or immediately following:
  - (a) his 55th birthday, where his Normal Age of Pension Entitlement is 65; or

(b) his 50th birthday, where his Normal Age of Pension Entitlement is 60;

and before the Normal Pension Entitlement Date if he notifies the Trustees of his intended date of retirement at least 90 days before that date and shall, at least 30 days before that date, make the election referred to in Clause 64 (Pension elections for redemption of Statutory Units).

**54. NORMAL AGE OF PENSION ENTITLEMENT**

Subject to any election under Clause 53 (Early Age of Pension Entitlement) or under Clause 55 (Late Age of Pension Entitlement), a Member shall retire on his Normal Pension Entitlement Date and shall, at least 30 days before the Normal Pension Entitlement Date, make the election referred to in Clause 64 (Pension elections for redemption of Statutory Units).

**55. LATE AGE OF PENSION ENTITLEMENT**

55.1 A Member who does not wish to retire on his Normal Pension Entitlement Date and continues employment after that date shall deliver to the Trustees at least 90 days before his Normal Pension Entitlement Date a notice electing to continue accruing benefits under this Plan after the Normal Pension Entitlement Date.

55.2 Contributions if any made to the Plan by or on behalf of a Member after his Normal Pension Entitlement Date shall be deemed to be applied to the acquisition of Voluntary Units.

55.3 In accordance with Section 26 (5) of the Law, a Member who has made the election under Clause 55.1 for late retirement may revoke his election at any time on at least 90 days' notice provided that he shall make the election referred to in Clause 64 (Pension elections for redemption of Statutory Units).

**56. DEATH LEAVING SURVIVING SPOUSE OR CIVIL PARTNER**

If a Member dies at any time whilst a Member of the Plan or whilst receiving any benefits under the provisions of the Plan leaving a spouse or civil partner who survives him, the Trustees shall, on receipt of sufficient evidence, transfer the Units into the name of the surviving spouse or civil partner and the surviving spouse or civil partner shall be a Member for all purposes thereafter except that no contributions shall be due in respect of the surviving spouse or civil partner only as a result of becoming a Member.

**57. DEATH LEAVING NO SURVIVING SPOUSE OR CIVIL PARTNER**

57.1 Subject to Clauses 57.2 and 57.3, if a Member dies at any time whilst a Member of this Plan or whilst receiving benefits under this Plan leaving no spouse or civil partner who survives him, the Trustees shall redeem the Units registered in the Member's name on the Contribution Date following acceptance by the Trustees of all required forms, at the Redemption Price of the Units on that Contribution Date and the Trustees shall pay the redemption proceeds to the personal representative responsible for the estate of the Member to be dealt with as part of the estate of the Member.

57.2 Subject to the terms of Section 39 of the Law, a Member may, by signed written notice in a form acceptable to the Trustees, designate a beneficiary or beneficiaries from amongst his dependent children who shall be entitled to receive all or part of the Redemption Price of his Units in such shares as he shall specify in the event of the Member's death leaving dependent children but no spouse or civil partner and may in like manner revoke such designation.

57.3 Subject to the terms of Section 39 of the Law, a Member may, by signed written notice in a form acceptable to the Trustees, designate a beneficiary who shall be entitled to receive the Redemption

Price of his Units in the event of the Member's death leaving no spouse or civil partner or dependent children and may in like manner revoke such designation.

- 57.4 The Trustees may, with the consent of the Director, permit a Member to designate a beneficiary who shall be entitled to receive the Redemption Price of his Units in the event of the Member's death in circumstances other than those specified in Clauses 57.2 and 57.3.

**58. ILL-HEALTH RETIREMENT**

With the approval of the Trustees and the Director, a Member may, in accordance with Section 40 of the Law, by reason of mental or physical disability make the election specified in Clause 53 (Early Age of Pension Entitlement) at a time earlier than his 55th or 50th birthday (as the case may be depending on his Normal Age of Pension Entitlement).

**59. COMPLIANCE WITH THE LAW**

No Member has any right to redeem his Units other than as provided for under this Trust Deed in accordance with the Law or (subject to the Law) or, at the discretion of the Trustees, in accordance with a Retirement Savings Arrangement approved by the Director.

**60. NEW EMPLOYER NOT PARTICIPATING IN THIS PLAN**

- 60.1 On receipt of an election by the Member, the Trustees shall redeem the Units of a Member:

- (a) who ceases to be employed by an employer who has adhered to this Plan and who is then employed by an employer who does not adhere to this Plan; or
- (b) whose employer ceases to adhere to this Plan

on the immediately following Contribution Date which falls at least three Business Days following receipt of that election and shall transfer the redemption proceeds of those Units to the administrator of the registered pension plan or prescribed Retirement Savings Arrangement of the new employer of the employee or purchase an annuity in accordance with Section 34 of the Law.

- 60.2 The Trustees shall hold the Units registered in the name of any Member to whom Clause 60.1 applies until an election is received under the provisions of this Trust Deed.

**61. NEW EMPLOYER PARTICIPATING IN THIS PLAN**

An employee who changes employers where both employers have adhered to this Plan shall continue to be a Contributing Member. His contributions and those of his new employer shall be used to purchase Units to be added to the Units acquired by the employee during his previous employment.

**62. MEMBER WHO LEAVES THE CAYMAN ISLANDS**

- 62.1 Subject to and in accordance with Section 53 of the Law, where:

- (a) a Member's employment is terminated;
- (b) he ceases to reside in the Cayman Islands for a period of two (2) years; and
- (c) no contributions have been made to this Plan by him or on his behalf for a period of two years or more,

a Member may make the election in Clause 62.2. For these purposes a person is deemed to have ceased to be resident in the Cayman Islands when the person has been absent from the Cayman Islands for a period of six (6) months or more, and, in calculating a period of absence, no account shall be taken of a period of residence in the Cayman Islands for a continuous period of less than three months.

- 62.2 A Member meeting the criteria in Clause 62.1 may elect to have his Units redeemed and the redemption proceeds transferred to another pension plan, which may be an overseas pension plan, approved by the Department of Labour and Pensions.
- 62.3 Subject to the Law, where the redemption value of the relevant Units would not exceed the Small Sum, the two year period described in Clause 62.1 shall be waived by the Trustees.
- 62.4 Where a Member meeting the criteria in Clause 62.1 is a member of another pension plan to which the redemption proceeds for his Units may be transferred in accordance with the Law and Clause 62.2, the Trustees shall redeem the Units registered in the Member's name on the Contribution Date which is at least three Business Days following receipt of an election and shall transfer the redemption proceeds to that pension plan as permitted by the Law and directed by the Member.
- 62.5 Where a Member meeting the criteria in Clause 62.1 is unable to make arrangements for the transfer to another pension plan of the redemption proceeds for his Units, his Units shall be redeemed in accordance with Clause 53 (Early Age of Pension Entitlement), 54 (Normal Age of Pension Entitlement) or 55 (Late Age of Pension Entitlement).

### **63. UNEMPLOYMENT OF MEMBER**

If a Member ceases to be employed by an employer who has adhered to this Plan, the Member shall notify the Trustees accordingly and, subject to Clauses 60 (New employer not participating in this Plan) and 61 (New employer participating in this Plan), the Trustees shall hold the Units registered in the name of the Member until redemption pursuant to the terms of this Trust Deed and the Law.

### **64. PENSION ELECTIONS FOR REDEMPTION OF STATUTORY UNITS**

- 64.1 To the extent permitted by the Law and the Director, the elections available to a Member pursuant to Clauses 53 (Early Age of Pension Entitlement), 54 (Normal Age of Pension Entitlement) and 55 (Late Age of Pension Entitlement) above are:
- (a) to redeem all or any Units registered in his name and to apply the Redemption Price thereof in accordance with Clause 64.2;
  - (b) to redeem Units in tranches under Clause 64.3; or
  - (c) to implement any Retirement Savings Arrangement approved by the Trustees and the Director.
- 64.2 The Trustees shall in respect of a Member who has made an election under Clause 64.1(a):
- (a) redeem the applicable Units registered in his name on the Member's Age of Pension Entitlement Contribution Date at the Redemption Price prevailing on the Age of Pension Entitlement Contribution Date; and
  - (b) purchase on redemption of the Units with the redemption proceeds either an annuity for him (which, in the case of a Member with a spouse or civil partner, shall be a joint and survivor annuity) or such prescribed Retirement Savings Arrangement as shall be authorised under the Law or, in the case of a Small Sum, pay that in cash to the Member.



- 64.3 The Trustees shall in respect of a Member who makes an election under Clause 64.1(b):
- (a) redeem at the election of the Member such percentage of the Units as may be permitted by the Law or agreed by the Trustees with the Director registered in the name of the Member at the Redemption Price on the Age of Pension Entitlement Contribution Date;
  - (b) redeem the number of Units equal to such percentage of the Units as may be permitted by the Law or agreed by the Trustees with the Director registered in the name of the Member (after deducting any redemptions under Clause 64.3(a)) on the Age of Pension Entitlement Contribution Date and on each of the Income Payment Dates at the Redemption Price; and
  - (c) pay the redemption proceeds to the Member within 30 Business Days of the Age of Pension Entitlement Contribution Date or Income Payment Date, as the case may be.
- 64.4 If the Member so requests the Trustees in writing, the ongoing redemption of Units under Clause 64.3(b) may, with the consent of the Director, be expedited by the Trustees in respect of all or any of the Members if the Trustees take the view that, either generally or in any particular case or cases, such expedited payments would be justified by the investment returns on the Pension Fund subsequent to the Age of Pension Entitlement Contribution Date or because of the particular circumstances of the Member concerned or the value of the Units of a Member.
- 64.5 If the Member so requests the Trustees in writing, the ongoing redemption of Units under Clause 64.3(b) may, with the consent of the Director, be delayed by the Trustees in respect of all or any of the Members if the Trustees take the view that, either generally or in any particular case or cases, such deferred payments would be justified by the investment returns on the Pension Fund subsequent to the Age of Pension Entitlement Contribution Date or because of the circumstances of the Member concerned.
- 64.6 If a Member fails to make an election under Clause 64.1, the Trustees shall not redeem his Units until such time as valid elections shall be made.

## 65. REDEMPTION OF VOLUNTARY UNITS

65.1 Without prejudice to Clause 65.2, and subject to:

- (a) any restrictions imposed by the Law, and
- (b) the approval of the Director where required,

Voluntary Units may, with the consent of the Trustees, be redeemed on or after the Age of Pension Entitlement Contribution Date at any time on at least 30 days' notice to the Trustees prior to the relevant Contribution Date as at which the redemption will be effected. After retirement, except with the consent of the Trustees, redemptions may only be effected on the Age of Pension Entitlement Contribution Date and the Income Payment Dates applicable to the Member.

- 65.2 Voluntary Units may be redeemed by a Member prior to the Normal Age of Pension Entitlement Date on the following grounds:
- (a) for medical purposes where the Member's health insurance does not cover the cost of the medical attention sought and the medical attention sought is not elective;
  - (b) for temporary unemployment where that unemployment is within the first six month period following the three month period after the date upon which the member was terminated;

- (c) for housing purposes including the construction of the Member's dwelling house, purchase of residential land for the member or for payment of the outstanding balance of the Member's mortgage in full but excluding the payment of rent or similar purposes; and
- (d) for the educational purposes of a Member or the dependent child of a Member who is under 23 years of age and pursuing full time education.

For the purposes of this Clause 65.2, the Member shall make an application to the Trustees in the manner prescribed or authorised by the Director.

- 65.3 No Member may, without prejudice to Clause 65.4, request more than two redemptions of Voluntary Units in any one calendar year except with the consent of the Trustees.
- 65.4 In circumstances where a Member elects not to redeem Statutory Units to the full extent permitted by Clause 64 (Pension elections for redemption of Statutory Units) such Statutory Units that are not redeemed shall be re-designated as Voluntary Units and may be redeemed in accordance with Clauses 65.1 to 65.3 or in accordance with such scheme of redemption as may, from time to time, be agreed between the Trustees and the Member.

## 66. EARLY REDEMPTION OF STATUTORY UNITS

- 66.1 For the purposes of this Clause 66:

**building society** means a society incorporated under the Building Societies Act (as revised);

**Caymanian** has the meaning assigned to that expression under the Immigration Act (as revised);

**Cayman Islands Development Bank** means the Cayman Islands Development Bank established under section 3 of the Development Bank Act (as revised);

**Class A bank** means a bank holding an "A" licence under the Banks and Trust Companies Act (as revised);

**credit union** has the meaning assigned to that expression under the Cooperative Societies Act (as revised);

**deposit** means all monies required by a financial institution as a condition for a person to obtain a loan (which shall include any legal fees and stamp duty) the proceeds of which will be used to purchase an existing dwelling unit, construct a new dwelling unit, or purchase residential land in the Cayman Islands;

**dwelling unit** means two or more rooms used or intended for the domestic use of one or more individuals living as a single housekeeping unit, with exclusive cooking, eating, living, sleeping and sanitary facilities;

**financial institution** means a building society, credit union or Class A bank carrying on business in the Cayman Islands or the Cayman Islands Development Bank;

**non-current home owner** means a person who does not currently own a dwelling unit in the Cayman Islands;

**residential land** means any lot, plot, tract, area, piece or parcel of land including any building used exclusively or intended to be used as a dwelling unit; and

**room** means a compartment within a building enclosed by -

- (a) a floor;
  - (b) a ceiling; and
  - (c) walls or partitions.
- 66.2 A Member who is a Caymanian and non-current home owner may apply to the Trustees to redeem so many of his Statutory Units as will amount to redemption proceeds up to a maximum of CI Dollars 35,000 as a deposit to purchase an existing dwelling unit, construct a new dwelling unit or purchase residential land in the Cayman Islands.
- 66.3 A Member who is a Caymanian may apply to the Trustees to redeem so many of his Statutory Units as will amount to redemption proceeds up to a maximum of CI Dollars 35,000 required to pay off an existing mortgage on a dwelling unit in the Cayman Islands so that the dwelling unit is free from any encumbrance.
- 66.4 The application to redeem Statutory Units pursuant to this Clause shall be made to the Trustees in the form and with the supporting materials prescribed in the Law, and the Trustees shall process all such applications in accordance with their obligations in Part VIIA of the Law.
- 66.5 Where a Member redeems Statutory Units pursuant to this Clause he shall, in addition to the amount that the Member is otherwise required to contribute to this Plan, contribute an additional amount of 1% of his earnings to the Plan from the month immediately following the date on which the Trustees issued the cheque to him for the redemption monies for his Units.
- 66.6 Both the Member who has redeemed Statutory Units pursuant to this Clause and the Trustees shall be subject to all the conditions, limitations, provisos, obligations and procedures prescribed for such withdrawals from the Plan as are set forth in Part VIIA of the Law as though the same were reproduced, *mutatis mutandis*, in this Clause 66.
- 67. REDEMPTION – GENERAL PROVISIONS**
- 67.1 The Redemption Price per Unit for redemptions shall be calculated by dividing the Net Asset Value of the Pension Fund (calculated in accordance with Clause 51 (Net Asset Value)) on the relevant Contribution Date by the number of Units in issue on that Contribution Date.
- 67.2 In circumstances where redemption proceeds may be paid directly to a Member or his personal representatives or to another person on his behalf, remittances of redemption proceeds (net of the costs of the remittance) shall generally be by cheque or wire transfer in either CI Dollars or US Dollars (at the Members' discretion) within 30 days of the relevant Contribution Date or Income Payment Date as the case may be save as otherwise provided in this Trust Deed. In the absence of directions to the contrary, remittances shall be by cheque sent to the address of the Member appearing on the Register maintained under Clause 49 (Ownership and Register).
- 67.3 The Trustees shall not be liable for any loss resulting from the absence of directions. Interest shall not accrue on redemption proceeds.
- 67.4 Neither the Trustees nor the Pension Fund shall be liable for any delay in the redemption of Units in circumstances where such delay has been caused by any delays in correspondence with or approvals from the Director or the failure to make an election on the part of a Member or any other delay in the answering of reasonable enquiries made by or on behalf of the Trustees. The Member shall bear the market risk of any such delay. The Trustees shall be under no positive obligation to seek out the Member or to seek from him an election in accordance with the provisions of this Trust Deed.

- 67.5 An election by a Member regarding redemption or delayed redemption of Units is, except as specifically stated in this Trust Deed, irrevocable unless the Trustees shall agree to the contrary.

#### REORGANISATION OF PLAN

##### 68. GROUP TRANSFERS OUT OF THIS PLAN

- 68.1 On receipt of an election by an employer and, in any event, on the direction of the Director, the Trustees shall in respect of all Members to whom that election or direction refers transfer to another pension plan the redemption proceeds of the Units of those Members provided that:
- (a) the consent of the Member to be transferred shall be required (unless the transfer is a transfer by the Member's employer of all his employees to the receiving pension plan and two-thirds of those employees have approved the transfer); and
  - (b) the transfer shall not prejudice approval or registration of either this Plan or the receiving plan.
- 68.2 The Trustees of this Plan shall supply a certificate to the administrator of the receiving plan stating the cash value to be credited to the account of each transferring Member and whether the Member is a Contributing Member, Age of Pension Entitlement Member or Inactive Member.
- 68.3 The Trustees shall redeem the Units of the transferring Members on the first Contribution Date that falls at least three Business Days after receipt by the Trustees of notice of the transfer on behalf of the transferring Members and shall pay the redemption proceeds to the administrator of the receiving plan.

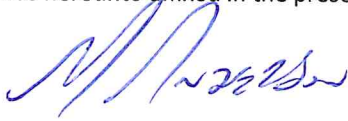
#### TERMINATION

##### 69. TERMINATION AND WINDING UP

- 69.1 The Trustees may terminate and wind up the Plan in whole or in part pursuant to Section 58 *et seq* of the Law.
- 69.2 The Director may order the termination on winding up of the Plan in accordance with Section 59 of the Law.
- 69.3 On the termination and winding up of the Plan, the Pension Fund, after payment of expenses, shall be applied to the Members pro rata according to the number of Units held by each of them.

IN WITNESS WHEREOF this Deed has been executed the day and year first above written.

THE COMMON SEAL OF  
RF BANK & TRUST (CAYMAN) LIMITED  
Was hereunto affixed in the presence of:



.....  
Authorised Signatory



.....  
Authorised Signatory

