

***DECLARATION OF TRUST***

***AND***

***DEED OF SETTLEMENT***

***THIS DECLARATION OF TRUST AND DEED OF SETTLEMENT*** is made the 3rd day of September, 2003, by and between :

**NINE NINE INVESTMENT TRUST**

of

**USA**

(hereinafter referred to as ' the Settlor ) of the ONE PART

and

***CARIBBEAN TRUST COMPANY (NEVIS) LIMITED***

a company duly incorporated under Chapter 335 of the Companies' Law of the Federation of Saint Christopher and Nevis, with its Registered Office being at P.O. Box 623, Main Street, Charlestown, in the Island of Nevis and holding a licence to carry on a Trust business (hereinafter referred to as ' the Trust Company ' ) of the OTHER PART;

**WHEREAS :**

1. The Settlor desires to make this settlement and to grant transfer deliver and convey or otherwise place under the control of the Trust Company all that Property specified in First Schedule hereto to establish the within described Trust in settlement thereof in accordance with the provisions set forth hereinafter and from time to time such further monies investments or other property as may be granted transferred delivered and conveyed to the Trust Company by way of addition.
2. It is **intended** that this settlement shall be irrevocable.

**NOW THEREFORE WITNESSETH THIS DECLARATION OF TRUST AND DEED OF SETTLEMENT as follows:**

**ARTICLE I**

General Provisions.

1.01 Name of Trust. The Trust created under the provisions of this Declaration shall be known as:

1.02 Definition. In this Declaration and Deed, where the context so admits, the following words or expressions bear the following meanings, to wit; say:

- (a) **“Trustee or Trustees”** means the Trust Company and any other person, firm or entity so designated under the provisions hereof;
- (b) **“The Beneficiaries”** means those specified in the Second Schedule to this Declaration and Deed;
- (c) **“Excluded beneficiaries”** means any beneficiary who is or becomes a resident of the Island of Nevis during the “Trust Period”, as defined below;
- (d) **“The Protector”** means \_\_\_\_\_ of \_\_\_\_\_, and any other person so designated under the terms of this Declaration and Deed.
- (e) **“Property”** means real, personal, moveable or immovable property of any description and wheresoever situate including policies, cash and choses in action;
- (f) **“The Trust Fund”** means the said property specified in the First Schedule hereto which has been granted, transferred and conveyed to the Trust Company and all other (if any) capital, monies and investments or other property which may at any time hereafter be paid or transferred in any manner into the names or under the legal control of the Trustees to be held upon the trusts hereof or which may at any time hereafter in any other manner become subject to the trusts hereof and the property from

time to time representing the same respectively;

(g) **“The Trust Period”** means the period commencing on the date of the execution of this Declaration and Deed and ending on the earliest of the following dates:

(i) expiration of one hundred (100) years from the date of this Declaration and Deed; or

(ii) subject to the written consent of the Protector and the provisions contained herein, any such date as the Trustees shall declare in writing to be the date of termination of the Trust; or

(iii) one year after the date on which there shall be no Beneficiaries in existence.

(h) **“Person”** shall include any person, corporation, partnership, sole proprietorship or any other lawfully recognized entity, wherever formed, chartered or incorporated.

(i) **“Determining Event”** shall mean the occurrence of any event or any act or omission on the part of the Beneficiary (other than giving consent to an advancement of trust property) which would result in the whole or part of the income of the Beneficiary from the Trust becoming payable to any person other than the Beneficiary;

(j) The singular number shall include the plural number and vice versa;

(k) The masculine gender shall include the feminine gender and vice versa;

(l) The neuter gender shall include the masculine gender and the feminine gender and vice versa.

## ARTICLE 11

### Powers of the Trustee

2.01 The Trustees hereby irrevocably declare that they will hold the Trust fund upon the trusts and with and subject to the powers and provisions hereinafter contained.

2.02 The Trustees shall stand possessed of the capital and income of the Trust Fund in trust for all or such one or more exclusively of the others or other of the Beneficiaries at such age or time or

respective ages or times if more than one in such shares and with such trusts, powers and provisions for their respective benefit, advancement, maintenance, comfort and education as the Trustees shall in their absolute discretion by Deed appoint, PROVIDED ALWAYS as follows:

- (a) No appointment shall be made, revoked or revocable after the expiration of the Trust Period.
- (b) The Trustees may at any time or times during the Trust Period by any irrevocable Deed wholly or partially release or restrict the powers specified in this Clause.
- (c) Without prejudice to the generality of the powers of release and restriction herein before conferred upon them, the Trustee may, (and if so directed in writing by a beneficiary who is then sui juris then in relation to that beneficiary the Trustees shall) by any Deed or Deeds wholly or partially exclude any beneficiary (whether ascertained or not) from future benefit hereunder whether under the power in this Clause contained or under any of the trusts and powers herein after contained and thereupon such beneficiary shall be excluded accordingly PROVIDED that this power shall not be capable of being exercised so as to derogate from any interest to which such beneficiary has previously become indefeasibly entitled whether in possession or in reversion or otherwise.

2.03 The Trustees, in addition to all powers vested in said Trustees by law or statute, shall have the following powers with respect to each trust held under this instrument, exercisable in the discretion of the Trustees unless specifically prohibited or directed to the contrary, but always, in any event, subject to the prior written consent of the Protector

- (a) To charter, form, retain and/or operate, for any period of time without limitation, and without liability for loss or depreciation in value, any business or other property transferred to the Trustees, including but not limited to a sole proprietorship, any interest in a partnership (whether general, special or limited), or stock in any corporation even though the Trustees could not properly purchase the business or property as a trust investment and though its retention might violate principles of investment diversification.
- (b) To sell at public or private treaty, wholly or partly for cash or on credit, contract to sell, grant or exercise options to buy, convey, transfer, exchange, or lease (for a term within or extending beyond the term of the trust) any real or personal property of

the trust, and to partition, dedicate, grant easements in or over, subdivide, improve, and remodel, repair, or raze improvements on any real property of the trust, and in general to deal otherwise with the trust property in such manner, for such prices, and on such terms and conditions as any individual might do as outright owner of the property.

- (c) To borrow money at interest rates then prevailing from any individual, bank, or other source, irrespective of whether any such individual or bank is then acting as Trustee, and to create security interests in the trust property by mortgage, deed of trust, pledge, or otherwise.
- (d) To invest the Trust Fund or any part or parts thereof in the purchase of or at interest upon the security of such bonds, common or preferred stocks, funds, shares, securities, commodities, notes, real estate mortgages, common trust funds, shares of regulated investment companies, partnership interests (whether general, special or limited), or other securities or property, real or personal, including partial interests, such as life estate, term or remainder interests, without being limited by any statute or rule of law governing investments by Trustees, or other investments of whatsoever nature in any part of the world and whether involving liability or otherwise, whether in possession or reversion and whether producing income or not, as the Trustees may in their absolute discretion consider appropriate.
- (e) To apply any part of the capital or income of the Trust Fund in effecting or enabling any beneficiary to effect any policy or policies of assurance or insurance on the life of any person (PROVIDED that the person entitled to receive the proceeds of any such policy of life assurance shall be a beneficiary hereof) or any endowment policy or policies (including any term policy or policies for the education, advancement, or otherwise for the benefit of any beneficiary) or any other policy or policies (such policy or policies to be assigned to the Trustees if not originally effected by them) and in maintaining any policy or policies as aforesaid, and so that the Trustees shall have all such powers of selling, surrendering, exchanging, making fully paid up or otherwise dealing with any such policy or policies as if they were absolutely entitled thereto and all monies assured by any such policy or policies as if they were absolutely entitled thereto and all monies assured by any such policy or policies or received on the sale, surrender or exchange thereof shall be treated as monies forming part of the Trust Fund.
- (f) To apply any part of the capital or income of the Trust Fund in purchasing or enabling any beneficiary to purchase any annuity or annuities on the life of any person or for any other period (including power to purchase any annuity or annuities to be held on protective trusts for the benefit of any one or more of the Beneficiaries) (PROVIDED that the person entitled to receive the benefits of any

such annuity shall be a beneficiary hereof) and so that any annuity or annuities as aforesaid shall be held as an asset of the Trust Fund for all purposes.

- (g) To apply any part of the Trust Fund in the purchase of freehold or leasehold property in any part of the world (with or without any house or building thereon and whether encumbered or not) whether for the beneficial occupation, use or enjoyment of any beneficiary or otherwise and so that if for the beneficial occupation, use or enjoyment of any beneficiary, the Trustees may permit such beneficiary to occupy the same rent free or on such terms and conditions as the Trustees may think fit.
- (h) To apply any part of the Trust Fund in repairing, cleaning, decorating, making structural alterations to any building forming part of the Trust Fund, and in paying taxes, rates, insurance premiums, expenses, servants' wages and all other payments and outgoings whatsoever due and payable or to become due and payable for or on account of such property.
- (i) To incorporate any company or companies in any place in the world at the expense of the Trust Fund with limited or unlimited liability for the purpose of inter alia acquiring the whole or any part of the Trust Fund. The consideration for the sale of the Trust Fund or any part thereof to any company or companies incorporated pursuant to this sub Clause may consist wholly or partly of fully paid shares, stock, debentures or debenture stock or other securities of the company or companies and may be allotted to or otherwise vested in the Trustees and be capital monies in the Trustees' hands.
- (j) To exercise or concur in exercising all the voting and other rights attaching to any shares, stock, debentures or debenture stock or other securities for the time being forming part of the Trust Fund and without prejudice to the foregoing generality to exercise or concur in exercising such power so as to become a Director or other officer of or employee of any company and to be entitled to vote for and to be paid and to retain for the Trustees' services as such Director, officer or employee.
- (k) To surrender and deliver up any securities forming part of the Trust Fund for such consideration and upon such terms and conditions as the Trustees may approve to any company or corporation reducing its capital and the Trustees may receive such consideration in the form of such securities or other assets as may be agreed between the Trustees and such other corporation.
- (l) To consent to any re-organization or re-construction of any company or corporation the securities of

which form part of the Trust Fund, and to consent to any reduction of capital or other dealing with such securities as the Trustees may consider advantageous or desirable.

- (m) To appoint agents to act by proxy or under a power of attorney with or without power of substitution for voting or acting on behalf of the Trustees as owner of any property comprising any part of the Trust Fund.
- (n) To hold any or all securities or other property in bearer form or in the name of the Trustees or in the name of some other person or partnership or in the name of a duly appointed nominee without disclosing the fiduciary relationship.
- (o) To invest or lay out any monies forming part of the Trust Fund in the purchase of such property of whatsoever nature and wheresoever situate as the Trustees shall in their absolute discretion think fit
- (p) To invest or lay out any monies forming part of the Trust Fund by way of loan to any person, with or without interest or security, and upon such terms as to interest (if any) and repayment as the Trustee in their absolute discretion think fit, including the purchase of debentures or debenture stock in any company incorporated in any part of the world.
- (q) To make allocations, divisions, and distributions of trust property in cash or in kind, or partly in each; to allocate different kinds or disproportionate shares of property or undivided interests in property among the beneficiaries or separate trusts, without liability for, or obligation to make compensating adjustments by reason of, disproportionate allocations; and to determine the value of any property so allocated, divided or distributed.
- (r) To exercise in person or by general or limited proxy all voting and other rights, powers, and privileges and to take all steps to realize all benefits with respect to stocks or other securities; and to enter into or oppose, alone or with others, voting trusts, mergers, consolidations, foreclosures, liquidations, reorganizations, or other changes in the financial structure of any corporation.
- (s) To cause any security or other property to be held, without disclosure of any fiduciary relationship, in the name of the Trustees, in the name of a nominee, or in unregistered form.
- (t) To pay all expenses incurred in the administration of the trust, including reasonable compensation to any Trustees, and to employ or appoint and pay reasonable compensation to accountants, depositories, investment counsel, attorneys, attorneys-in-fact,

and agents (with or without discretionary powers).

- (u) To deal with the fiduciary or fiduciaries of any other trust or estate, even though the Trustee is also the fiduciary or one of the fiduciaries of the other trust or estate;
- (v) To compromise, contest, prosecute or abandon any claim in favor of or against the trust;
- (w) To lend money to any person or trust for the benefit of any beneficiary hereunder and purchase property and retain it for any period of time without limitation, and without liability for loss or depreciation in value, notwithstanding any risk, non-productivity, or lack of diversification.
- (x) To commingle for investment purposes the property of the trust with the property of any other trust held hereunder, allocating to each trust an undivided interest in the commingled property.
- (y) To receive any property, real or personal, to be added to the trust, from any other trust or person by direct conveyance or transfer or by lifetime or testamentary transfer or otherwise.
- (z) To execute instruments of any kind, including instruments containing covenants and warranties binding upon and creating a charge against the trust property and containing provisions excluding personal liability.
- (aa) To borrow money and to mortgage or pledge any trust property, and to buy and sell securities of all types on margin, to buy and sell put and call options in securities and /or commodities of all types.
- (bb) To transfer the whole or any part of the Trust Res or Trust Fund to another Trust created either by the Trustees or by any other person in any other country, without limitation.
- (cc) To institute and defend proceedings at law and to proceed to the final end and determination thereof or compromise the same as the Trustees shall in their absolute discretion consider advisable, and all such compromises and settlements shall be binding on all the beneficiaries.
- (dd) To perform all other acts necessary for the proper management, investment, and distribution of the trust property in accordance with the terms and tenor of this Declaration and Deed.

2.04 The Trustees may at any time or times during the Trust Period by writing but with the prior consent of the Protector

make any alterations or additions to the provisions of this Deed which they consider in their absolute discretion to be for the benefit of all or any one or more of the Beneficiaries.

- 2.05 The Trustees may at any time or times during the Trust Period by writing extinguish (or restrict the future exercise of) any of the powers conferred on them by this Deed or by law.
- 2.06 The parties hereto recognize that the law of the place of residence or domicile of the Settlor may treat all or any part of the assets of the Trust Fund, as assets of the Settlor's estate for the purpose of estate taxes or death taxes. The Trustees are therefore empowered from time to time to make such amendments to this Deed as are their opinion, desirable to give effect to the Settlor's estate plan.
- 2.07 The powers granted in this Article shall be in addition to those granted by the law of the Island of Nevis and may be exercised even after termination of all trusts hereunder until actual distribution of all Trust Funds, all with the consent of the Protector.

#### **ARTICLE 111.**

##### Division of Trust upon Expiration of Trust Period.

- 3.01 At the expiration of the Trust Period, the Trustees shall transfer any undistributed capital and income of the Trust Fund to all or any one or more of the Beneficiaries then living, or if any beneficiary is not living then to any such deceased beneficiary's spouse, or if there is none, such beneficiary's issue, or if there are neither then to the remaining surviving beneficiaries, other than any Excluded Beneficiaries in equal shares. If at such expiration there are no Beneficiaries living, other than Excluded Beneficiaries, the property or the remainder of the property including any undistributed capital and income shall be held for such other charitable purpose, as the Court, on the application of the trustee, may declare to be consistent with the original intention of the settlor.
- 3.02 Subject always to the consent of the Protector where required in exercising their discretion hereunder the Trustees shall not be required to have regard to the prospective interests of any Beneficiary, but shall be entitled to apply the Trust Fund in whatsoever manner they may deem most appropriate without being liable to account to any Beneficiary for any vested interest in the Trust Fund.
- 3.03 In keeping with the wholly discretionary nature of this Trust and all separate Trusts created hereunder, no Beneficiary, except as regards any irrevocable vesting in his favor, shall have any ascertainable proportionate, actuarial or otherwise fixed or definable right to or interest in all or any portion of the Trust Fund and in no case shall any

Beneficiary have any right to alienate, transfer, assign, encumber or hypothecate his expected interest therein, either present or future, nor shall any interest of any Beneficiary be subject to claims of his creditors, or liable to attachment, execution or other process of law from any jurisdiction in the world.

- 3.04 Except as otherwise provided herein, no benefit devolving on any Beneficiary under this Declaration and Deed shall form or constitute the portion of any communal or joint estate of such Beneficiary but such benefit shall be and remain the sole, separate and exclusive property of such Beneficiary and should such Beneficiary be married or marry in a community of property jurisdiction then any benefit so devolving shall be expressly excluded from the community and such benefit shall also be free from the interference, control or marital power of any spouse of such Beneficiary. For the purposes of this Clause the word “benefit” shall include moveable and immovable property and the provisions of this Clause shall apply moreover not only to the benefits actually devolving on such Beneficiary but also to the property for the time being representing the same and the income thereof.
- 3.05 Upon the Trustees exercising their powers under Clause 3 hereof, in favor of any beneficiary, the Trustees may provide by instrument in writing that any estate or interest in any property given to such beneficiary shall not during the life of that beneficiary (or for such shorter period as may be specified in the instrument ) be alienated, or pass by bankruptcy, insolvency, or liquidation, or be liable to be seized, sold, attached or taken in execution by process of law.
- 3.06 Unless there shall be a single Trustee the Trustees shall act only by a unanimous vote, but in the event of disagreement the Trustees shall be bound to take, abide by and act upon such professional advice as in the circumstances the Trustees deem expedient.

#### **ARTICLE 1V.**

##### Liability, Accountability and Compensation of Trustees

- 4.01 In the professed execution of the trusts and powers hereof, the Trustees shall not be liable for any loss to the Trust Fund arising by reason of any improper investment made in good faith or in consequence of the failure, depreciation or loss of any investment or investments made in good faith, or for the negligence or fraud of any agent employed by the Trustees although the employment of such agent was not strictly necessary or expedient or by reason of any mistake or omission made in good faith by the Trustees, or by reason of any other matter or thing except the willful and individual fraud or wrong-doing on the part of the

Trustee who is sought to be made liable.

- 4.02 The Trustees shall not be responsible for the management of any company or partnership held by this Trust.
- 4.03 The Trustees shall not be required to give a bond or security for the due and faithful administration of the Trust Fund or for the discharge of the trusts hereby created.
- 4.04 The Trustees shall not be liable to any third party except to the extent of the Trust Fund, and shall be entitled to exoneration and indemnity out of the Trust Fund for any judgment recovered against and paid by the Trustees other than liability, loss, expense or judgment arising out of the willful misconduct of the Trustees or the Trustees' negligence.
- 4.05 Every discretion or power hereby or by law conferred on the Trustees shall be an absolute and uncontrolled discretion or power and no Trustee shall be held liable for any loss or damage accruing as a result of such Trustee concurring or refusing or failing to concur in an exercise of any such discretion or power.
- 4.06 Every Trustee and any person who has ceased to be a Trustee shall be indemnified out of the assets of the Trust Fund (and shall be entitled to a lien on the Trust Fund for such indemnity) and shall be held harmless against any liability incurred by them in defending or bringing any proceedings whether civil or criminal other than in relation to circumstances in which the Trustees or former Trustees are not protected by any provision hereof.
- 4.07 Every Trustee and any person who has ceased to be a Trustee shall be indemnified out of the assets of the Trust Fund and held harmless against any claims, losses, death duties, taxes or other impositions arising in connection with the Trust Fund or any part thereof.
- 4.08 Where the assets of the Trust fund are insufficient to provide complete indemnification for the Trustees or former Trustees or where for any other reason the Trustees or former Trustees are not fully indemnified in accordance with paragraph 4.01 hereof then the Settlor hereby agrees to indemnify the Trustees or former Trustees on the terms described in Clauses 4.01, 4.04, 4.06 and 4.07 hereof.
- 4.09 The Trustees shall not be accountable for any remuneration or other benefit received by them or any of them from any company in which shares, stock, debentures or other securities are for the time being held by the Trustees.
- 4.10 Any Trustee hereof being a person engaged in any profession or business shall be entitled to be paid all usual

- professional or proper charges for business transacted, time expended and acts done by him or his firm in connection with the Trusts hereof including acts which a Trustee not being in any profession or business could have done personally.
- 4.11 A company being a Trustee hereof whether original or substituted may transact in its own office on behalf of the Trustees or of any beneficiary any business which by its constitution it is authorized to undertake on any same terms as would for the time being be made with an ordinary customer and may retain on current or deposit account or advance at interest all monies necessary or convenient to be retained or advanced in connection with the trusts hereof.
- 4.12 Any company acting as Trustee hereof may act on its published Schedule of Terms, Conditions and Fees (including the right to remuneration and the incidence thereof) in force at the date upon which such company becomes a Trustee hereof as if said Schedule were herein set out at length, PROVIDED, however that if and so often as such company shall publish a new Schedule of Terms, Conditions and Fees in which its rates or modes of charging remuneration or both shall be different from those in the Schedule of Terms, Conditions and Fees in force at the date hereof, the company shall thereafter be entitled to remuneration in accordance with such new Schedule of Terms, Conditions and Fees in substitution (but only so far as concerns remuneration) for those previously in force.
- 4.13 The Trustees shall keep accurate accounts of their trusteeship, and may at the expense of the within and foregoing Trust, have them annually audited by a firm of chartered or certified public accountants selected by the Trustees as the Trustees shall determine, and shall forward copies of such accounts to the Protector.
- 4.14 The customary expenses in connection with the administration of these trusts including the remuneration and charges of the Trustees hereinbefore provided for and of the investment and re-investment of any part of the Trust Fund and the collection of income and other sums derived therefrom shall be charged against the income of the Trust Fund but if such income is insufficient for the purposes, then the same shall be charged against the capital or so much of the capital as may be required in addition to the income for the purpose.

## ARTICLE V.

### Resignation, Removal and Replacement of Trustees.

- 5.01 Any Trustee may retire at any time, provided he gives prior written notice to the Protector or in the event that there is no person holding appointment as the Protector, then to any Beneficiary selected by the Trustees. Such notice is to be effective upon receipt thereof by that person or within 10 days of posting the same by registered airmail to the last

known address of that person, whichever is the sooner.

- 5.02.1 Notwithstanding any provision of this Deed to the contrary, if upon the resignation of a Trustee taking effect, there is not a least one corporate or two individual Trustees to act as continuing Trustees, so that the validity and continued existence of the Trust is likely to be endangered by the resignation, then the resigning Trustee may itself appoint a Trustee in its stead, to hold the position of Trustee pending the appointment of another Trustee by the person having the power so to do.
- 5.03 The Protector may from time to time by notice in writing remove any Trustees or appoint another person or persons to be an additional Trustee or additional Trustees. In the event that there is no person holding appointment as the Protector the Trustees shall have the power to appoint additional Trustees from time to time.
- 5.04 Where a Trustees dies or retires, or refuses or is unfit to act, or if it is a corporation, becomes insolvent or subject to a winding-up order then the continuing Trustees, or the personal representative of the last surviving Trustee or, if there is no such person, the retiring Trustee, may by writing appoint one or more other persons (whether or not being the persons exercising the power) to be a Trustee or Trustees in the place of the Trustee so deceased, retiring, refusing or being unfit to act.
- 5.05 The office of a Trustee shall be ipso facto determined and vacated if such Trustee being an individual shall be found to be a lunatic or of unsound mind or if he shall become subject to the bankruptcy laws or if he shall remain out of place in which these Trusts are for the time being administered for more than twelve months or if such Trustee being a company shall enter into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction).
- (a) In the event of any of the provisions of this Clause coming into effect, the following provisions shall apply:
- (i) No company may be appointed as a Trustee hereunder unless it is validly existing and legally entitled to carry on trust business in the country in which at the date of its appointment is the forum for the administration hereof.
- (ii) No successor Trustee shall be liable or responsible for the acts or defaults of any preceding Trustee and a successor Trustee may accept the account rendered and the property delivered by any outgoing Trustee and shall incur no liability to any person or

persons by reason of so doing.

(iii) Immediately upon ceasing to act as Trustee hereunder the outgoing Trustee shall effect the transfer and delivery of all property comprising the Trust Fund to the properly designated successor Trustee and the receipt of the successor Trustee shall be conclusive evidence of the Trust Fund as then constituted.

(iv) If the outgoing Trustee has any properly incurred and outstanding liabilities on the transfer date it shall not be bound to transfer the Trust Fund as aforesaid unless reasonable security is provided for indemnifying such outgoing Trustee against such liability.

(v) No person who shall have contributed property to the Trust Fund nor any spouse of such person may be appointed or be capable of acting as a Trustee hereof.

5.06 Notwithstanding that a Trustee has resigned or been removed, his powers shall continue to the extent that it may be necessary for the proper vesting of the Trust Fund in the continuing or successor Trustees.

5.07 Any Trustee acting in good faith without actual knowledge of his removal shall be indemnified hereunder as a Trustee notwithstanding such removal, and no third party dealing with any Trustee in good faith, shall be bound to inquire as to whether any notice of the removal of that Trustee has been given as aforesaid.

5.08 An outgoing Trustee shall forthwith upon his resignation be entitled to receive an indemnity and release from the continuing Trustees and where relevant, from any or all Beneficiaries, together with security therefor where the Trustee has exposure to taxes or like charges (provided that, any action which would disqualify him from protection under any provision hereof is excepted ) together with all fees owing to him in accordance with the provisions hereof including those related to the termination of his appointment.

5.09 A Trustee shall have a lien on all documents of the Trust in its possession and shall not be required to give possession of these nor to take any other action until satisfaction is made of its entitlement under any provision contained herein. If there shall be any dispute as to the outgoing Trustee's entitlement, then in the case of fees, the Trustee shall be entitled to payment of that part which is not disputed and to have proper security deposited for the balance pending resolution, and in the case of any other dispute, the Trustee shall be entitled to withhold its services until proper arrangements have been made to resolve such dispute and to meet the outgoing Trustee's entitlement upon resolution of such dispute.

- 5.10 Notices of all changes in the trusteeship shall be endorsed on or attached to these presents signed by the surviving or continuing Trustees and every such notice shall be sufficient evidence to any person having dealings with the Trustees as to the fact to which it relates.
- 5.11 The Trustees shall always consist of at least two individuals or one corporation, but a sole surviving individual Trustee may exercise the powers conferred on the continuing Trustees by paragraphs 5.03 and 5.04 above (but not other powers).

## **ARTICLE VI.**

### The Protector

- 6.01 The provisions of this Deed relating to the Protector shall continue to apply and shall bind the Trustees for the duration of this settlement notwithstanding the death of the Settlor and shall cease to apply only in the event that no person holds any appointment as Protector.
- 6.02 During his lifetime, the Settlor may appoint or remove any person (including himself) to act as Protector of this Trust. Any appointment may be expressed as being conditional or limited in duration by any term or event. Unless the appointment of any Protector expresses that it is limited by the death of the Settlor, such appointment shall survive and extend beyond such event.
- 6.03 Upon the death of the Settlor, the above powers of appointment and removal shall be vested in such appointed person as the Settlor shall have identified to the Trustees in writing. Unless the terms of his appointment provide otherwise each person appointed to exercise the powers of appointment of a Protector, shall have the same powers to appoint a successor to himself
- 6.04 Any appointment or removal notice shall be in writing, and shall be effective upon receipt thereof by the Trustees.
- 6.05 Any provision of this Deed which requires the consent of the Protector shall require his written consent.
- 6.06 The Trustees shall apply to the Protector for any such consent by giving him not less than 30 days' written notice of their desire to carry out any transaction for which consent is required, specifying in such notice sufficient details to permit

the Protector to consider the proposal.

- 6.07 In addition to those powers granted to the Protector hereinabove and in Article VIII. , paragraph 8.01 (b), set out below, the Protector may in his written consent:
- (a) waive the full notice period required by Clause 6.06 above in his absolute discretion; and/or
  - (b) give or withhold his consent in any case in his absolute discretion.
- 6.08 Failure by the Protector to give any decision or to communicate shall be treated by the Trustees as a refusal to consent.

## **ARTICLE V11.**

### Removal of Protector

- 7.01 The power of removing the Protector and of appointing a new Protector shall be vested in the Beneficiaries, exercisable by a majority of such of them as shall be sui juris from time to time by deed delivered to the Protector with a copy thereof to the Trustees.
- 7.02 The Protector may at any time resign such office on giving not less than fourteen days' notice to the Trustees and to such of the Beneficiaries as shall be sui juris at that time.
- 7.03 The office of Protector shall be ipso facto determined and vacated if the Protector shall be found to be a lunatic or of unsound mind or become subject to the bankruptcy laws of any jurisdiction.
- 7.04 Notices of all changes in the office of Protector shall be endorsed on or attached to these presents signed by the Trustees and every such notice shall be sufficient evidence to any person having dealings with the Trustees or the Protector as to the facts to which it relates.

## **ARTICLE V111.**

### Trust Forum

- 8.01 This Trust is established under the Laws of the Island of Nevis and the rights of all parties and the construction and effect of each and every provision hereof shall be subject to the exclusive

jurisdiction of and construed only according to the Laws of the Island of Nevis which shall be in the forum for the administration hereof. PROVIDED, however that the forum for the administration hereof may be changed from time to time prior to the expiration of the Trust Period in manner hereinafter appearing:

(a) Forthwith upon the happening or occurrence of any of the following events or circumstances, namely:

(i) The enactment of any law or the promulgation of any regulation or order or act by or on the part of any governmental authority agency or officer of or in the jurisdiction which for the time being is the forum aforesaid the objective purpose or effect of which is:

(1.) to restrict in any way the use, investment or distribution of the Trust Fund; or

(2.) the acquisition, expropriation or confiscation of any of the property comprising the Trust Fund; or

(3.) the compulsory conversion of any of the property comprising the Trust Fund; or

(4.) to compel the Trustees to sell or otherwise dispose of any of the property comprising the Trust Fund; or

(5.) the restriction, suspension or abrogation of any contract to which the Trustees are a party; or

(6.) the imposition of exchange control or currency restrictions which in the opinion of the Protector materially affects the capital or income of the Trust Fund; or

(7.) to levy any tax or duty on the Trust Fund which in the opinion of the Protector materially affects the capital or income of the Trust Fund;

capital

(ii) the declaration or existence of a state of war in consequence whereof the citizens or nationals or residents or corporations organized under the laws of the jurisdiction which is for the time being the forum aforesaid are deemed to be enemy aliens of the country in which any of the Beneficiaries entitled to specific interests (but not beneficiaries entitled to discretionary interests) are citizens, nationals or residents, or, (iii) the invasion of the

territory of the jurisdiction which is for the time being the forum aforesaid by hostile military forces; then in such event, the Trustees at the time shall automatically cease to be Trustees hereof and the person or corporation which the Protector shall, by deed delivered to the Trustees, appoint to be successor to the outgoing Trustees in such circumstances (with power to the Protector from time to time by deed delivered to the Trustees to revoke any such appointment and to appoint some other person or corporation to be the successor to the outgoing Trustees as aforesaid) shall automatically become the Trustees hereof and the forum for the administration of these trusts shall automatically be changed to the jurisdiction of residence or incorporation of such successor. The certificate of the Protector as to the happening of any event or occurrence as aforesaid shall be binding on all parties interested herein. The Trustees from time to time hereof shall be deemed to have appointed any person or corporation appointed from time to time to be successor as aforesaid as their attorney to take all action which may be necessary and to execute any document which may be required to transfer the Trust Fund into the control of such person or corporation appointed on the happening of any such event or occurrence as aforesaid

- (b) The Protector shall have power to change the forum for the administration of these trusts to any other place in any part of the world upon giving written notice to the Trustees. If any Trustee is not ordinarily resident in the country to which the forum is changed as aforesaid or being a company is not incorporated in or registered to carry on trust business and act as Trustee of a settlement under the laws of the said country, that Trustee shall within sixty (60) days of the change of forum as aforesaid change his residence to the said country or become registered to carry on trust business as aforesaid in the said country as the case may be or shall within the said sixty (60) days resign the trusteeship. PROVIDED FURTHER THAT notices of all changes of forum as aforesaid shall be by Deed endorsed on or attached to these presents signed by the Trustees and every such notice shall be sufficient evidence to any person, corporation or government or other authority having dealings with the Trustees as to the facts to which it relates; SUBJECT ALWAYS to the registration or other legal requirements of the country to which the forum is changed.

8.02 The Trustees may by resolution and for the benefit or security of the Trust Fund direct all or any part of the assets of the Trust Fund to be moved from one jurisdiction to another, and change the situs of administration of this Deed from one jurisdiction to another.

## ARTICLE 1X.

### Spendthrift Provisions

- 9.01 The Trustees in their discretion, but at all times with the written consent of the Protector, may diminish or terminate the interest of any Beneficiary under this Trust upon the occurrence of any Determining Events, including but not limited to the following, to-wit:
- (a) The Beneficiary becomes insolvent;
  - (b) Any property of the Beneficiary becomes liable to seizure or sequestration for the benefit of his creditors;
  - (c) The Beneficiary or his property becomes subject to a restriction on alienation of or dealing in that interest or any part thereof,
  - (d) In the opinion of the Trustees with the advice and consent of the Protector, it is determined that the Beneficiary is, in the immediate future, likely to:
    - (i) become insolvent;
    - (ii) have his property become liable to seizure or sequestration for the benefit of creditors; or,
    - (iii) have restraints on alienation placed upon the Beneficiary or his property or dealing with the interest herein or any part thereof.
- 9.02 Where any property under the terms of this Trust is directed to be held on protective or spendthrift trust for the benefit of a Beneficiary, the Trustees shall hold the property,
- (a) in trust to pay the income to the Beneficiary until the interest terminates in accordance with the terms of this Trust or a determining event enumerated hereunder occurs; and
  - (b) if a determining event occurs, and while the interest of the Beneficiary continues, in trust to pay the income to such of the following (and if more than one in such shares) as the Trustees in their absolute discretion, with the advice and consent of the Protector, shall appoint
    - (i) the Beneficiary or any spouse or child of the Beneficiary; or

(ii) if there is no such spouse or child the beneficiary and the persons who would be entitled to the estate of the beneficiary if he had then died intestate domiciled in Nevis.

## **ARTICLE X.**

### Miscellaneous Provisions

#### 10.01 Disclosure

Notwithstanding any rule of law or equity to the contrary, no Trustees domiciled in the Island of Nevis shall have any duty to divulge any information concerning any aspect of this Trust including (without limiting the generality of this provision) its existence, the existence of any entitlement whether vested or contingent of any Beneficiary, or any decision of the Trustees, to any person including (without limiting the generality of this provision) any Beneficiary provided that the Trustees shall supply such information as is requested to the Settlor, the Protector, or any person authorized by either of them, and such Trustees shall have discretion to provide information concerning any aspect of the Trust to any Beneficiary, whether existing or contingent if, in the Trustees' opinion, it is in the interests of the Trust so to do.

#### 10.02 Disclaimer of Interest

Any Beneficiary may, by giving notice in writing to the Trustees:

- (a) disclaim any benefit available to him;
- (b) cease to be a Beneficiary;
- (c) declare that he shall be an Excluded Beneficiary.

In each case, such notice may be limited to a period specified therein and shall have effect from the date of receipt by the Trustees.

#### 10.03 Duress and Influence

Notwithstanding any other provision of the Deed in the event that any power or discretion vested in or reserved to the Protector or the Settlor, is exercised by the Protector or the Settlor under duress or influence of an outside force, such exercise not being in the opinion of the Trustees holding office immediately prior to such exercise for the benefit of those persons being beneficiaries immediately prior to such exercise, then such exercise shall be deemed to be invalid and of no effect. In these circumstances, without limiting the generality thereof:

- (a) Where the Protector refuses to consent to the exercise of a duty or power by the Trustees the Trustees

shall disregard the withholding of consent and may exercise the duty or power accordingly without requiring any consent.

- (b) Where the Settlor directs the addition or deletion of any Beneficiary hereto, the Trustees shall disregard such direction.
- (c) Where the Protector purports to exercise its powers to remove or appoint any Trustees such exercise shall be invalid and the Trustees holding office immediately prior to such exercise, shall disregard such exercise.
- (d) Upon the occurrence of any event described in paragraph 9.01 above, the Trustees shall be required to record full details thereof in the Trustees' Minute Book.

#### 10.04 Governing Law

This Declaration is made and this Deed is executed, delivered and accepted by the Trustees in the Island of Nevis and except as otherwise provided herein, shall be administered under the law of the Island of Nevis, which law shall be the governing law of the Declaration and Deed, governing the construction, validity and administration thereof. The parties hereto submit to the jurisdiction of the High Court of St. Christopher and Nevis or its superior court in respect of all disputes which may arise in respect of this Deed.

#### 10.05 Extra-Jurisdictional effect.

The Trustees may by resolution and without the consent of the Protector, but at all times for the benefit or security of the Trust Fund, declare that this Trust shall, from the date of such resolution, take effect in accordance with the law of some other jurisdiction (providing such law would recognize the validity of this Trust and the respective interests of the Beneficiaries) and thereupon the governing law of this Trust shall be the law of that other jurisdiction.

#### 10.06 Custodian Trustees

The person who for the respective time shall have the power to appoint successor Trustees hereof shall have power to appoint any one of the existing Trustees to be a Custodian Trustee. Upon such appointment being made, the Trustees shall by deed make such consequential changes in or additions to or deletions from the powers and provisions of this Deed as such Trustees shall be advised on taking legal advice as necessary or desirable to give full force and effect to such appointment.

#### 10.07 Notices

Where the terms of this deed require any notice to be given then such notice shall be deemed to have been effected 10 days after the date of its posting by registered airmail, or if sent by electronic means including facsimile, immediately upon confirmation of the

satisfactory dispatch of the notice having been received by the sender.

10.08 Irrevocable

This Trust hereby created shall be irrevocable.

10.09 Payment of Taxes

The Trustees may with the consent of the Protector and the otherwise at their discretion pay out of the capital or income of the Trust Fund any taxes of any kind (including any inheritance, death, estate, gift, income or other tax, duty or fiscal imposition whatever) which become payable anywhere in the world in respect of any part of the Trust Fund or its income (whether or not enforceable) either by the Trustees, or by any other person who has transferred assets to the Trust or by any Beneficiary, notwithstanding that the payment of taxes may be prejudicial to one or more of the Beneficiaries.

10.10 Reliance on Endorsed Copies.

Any person dealing with the Trustees may rely upon a copy of these presents and of the notices endorsed thereon or attached thereto certified by the Trustees before a Notary Public to the same extent as he might rely on the original.

**IN WITNESS WHEREOF** the Settlor has hereunto set his hand (and seal) and the Trust Company in token of its acceptance has caused these presents to be executed and its official seal to be hereto affixed by its proper officer thereto duly authorized the day and year first written above.

**SETTLOR(S)**

By: \_\_\_\_\_

By: \_\_\_\_\_

In the presence of:

By: \_\_\_\_\_

Witness to Settlor(s) Signature(s)

**TRUSTEE**

The Common Seal of

---

J.G.A. TITLEY  
Managing Director  
For: CARIBBEAN TRUST COMPANY (NEVIS) LIMITED

and by

---

A.M.A.TITLEY  
Director  
For: CARIBBEAN TRUST COMPANY (NEVIS) LIMITED

In the presence of:

---

Witness To Trust Company Signature(s)

