

TRUST DEED

BETWEEN

**SIM CAPITAL ALLIANCE LIMITED
(RC. 704280)**

AND

**LEADWAY CAPITAL & TRUSTS LIMITED
(RC. 268275)**

SIM CAPITAL ALLIANCE VALUE FUND

DATED THE 7th DAY OF JULY 2010

The Trustee will be liable for breach of its duties where it fails to carry out its responsibilities under this Trust Deed or to report a breach of the terms of this Trust Deed to the Securities and Exchange Commission

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THIS TRUST DEED is made the _____ day of _____ 2010

BETWEEN

SIM CAPITAL ALLIANCE LIMITED, a private limited liability company incorporated under the laws of the Federal Republic of Nigeria and having its principal place of business at 8th Floor, C&C Towers, Plot 1684, Sanusi Fafunwa Street, Victoria Island, Lagos (hereinafter referred to as the "**Fund Manager**" which expression shall, wherever the context so admits, include its successors-in-title and assigns) of the one part;

AND

LEADWAY CAPITAL & TRUSTS LIMITED, a private limited liability company incorporated under the laws of the Federal Republic of Nigeria and having its principal place of business at 121/123 Funsho Williams Avenue, Iponri, Lagos (hereinafter referred to as the "**Trustee**" which expression shall, wherever the context so admits, include its successors-in-office and assigns) of the other part.

WHEREAS:

- (A) The Fund Manager is duly registered with the Securities and Exchange Commission (the "**Commission**") as a corporate investment adviser and portfolio manager.
- (B) The Fund Manager, by a resolution of its Board of Directors, dated the 7th day of October 2008, resolved to establish a close-ended collective investment scheme known as SIM CAPITAL ALLIANCE VALUE FUND (the "**Fund**") and to serve as the manager of the Fund.
- (C) The directors of the Fund Manager have decided to offer to the general public, Fifty Million (50,000,000) Units (as defined herein) of One hundred Naira (₦100.00) each at One Hundred and Three Naira, Fifty Kobo (₦103.50k) per Unit, by way of an initial public offering (the "**Initial Public Offering**").
- (D) It is intended that the Fund will deal and invest predominantly in listed Nigerian equities, fixed income investments and such other securities as may be approved by the Commission from time to time.
- (E) Upon conclusion of the Initial Public Offering, the Units shall be admitted to listing on the Daily Official List of The Nigerian Stock Exchange.
- (F) The Trustee is registered with the Commission as a trustee and has agreed to act as trustee to the Fund for the benefit of the Unitholders (as defined herein), subject to the terms and conditions set forth in this Trust Deed.

- (G) The Trustee and the Fund Manager are distinct and separate corporate entities and are both duly incorporated under the **Companies and Allied Matters Act, Cap. C20 Laws of the Federation of Nigeria 2004** and neither of them is a subsidiary or holding company of the other.

NOW THIS DEED WITNESSETH as follows:

1. Definitions and Interpretations

1.1 Definitions

Unless the context indicates otherwise, in this Trust Deed, the following words or expressions shall have the meanings respectively assigned to them:

- 1.1.1 “**Authorized Investment**” means any investment selected by the Fund Manager in accordance with its investment policy and which is authorized under applicable laws in force from time to time including such investments as the Commission may from time to time approve;
- 1.1.2 “**Auditors**” means the auditors duly appointed in accordance with clause 30;
- 1.1.3 “**Business Day**” means a day other than a Saturday, Sunday or a public holiday on which banks are generally open for business in the Federal Republic of Nigeria;
- 1.1.4 “**Certificate**” means a certificate, in the form specified in Schedule Two, issued to a Unitholder who has not designated a CSCS account for holding Units, evidencing the number of Units held by such a Unitholder in the Fund;
- 1.1.5 “**Commission**” means the Securities and Exchange Commission as established and constituted under the ISA;
- 1.1.6 “**Court**” means the Federal High Court;
- 1.1.7 “**CSCS**” means the Central Securities Clearing Systems Limited;
- 1.1.8 “**Deposited Property**” means assets (including cash) held or deemed to be held on trust for the Fund and all Net Income Proceeds realized by the Fund which are yet to be invested or distributed; excluding any sums or investments which are for the time being standing to the credit of the Distribution Account;
- 1.1.9 “**Distribution**” means payments to Unitholders out of the profit of the Fund in any financial year;

- 1.1.10 **"Distribution Account"** means the account established pursuant to this Trust Deed for the payment of Distributions;
- 1.1.11 **"The Exchange"** means The Nigerian Stock Exchange;
- 1.1.12 **"Fund"** means the SIM Capital Alliance Value Fund and includes assets, investments and cash for the time being vested in the Trustee under the trust created hereunder or pursuant to any deed supplemental to this Trust Deed;
- 1.1.13 **"Holdings"** means all or any of a Unitholder's investments in the Fund;
- 1.1.14 **"Investment Committee"** means the committee established pursuant to this Trust Deed for the purpose of determining and approving investments of the Deposited Property;
- 1.1.15 **"ISA"** means the Investment and Securities Act No. 29 of 2007;
- 1.1.16 **"LFN"** Laws of the Federation of Nigeria, 2004;
- 1.1.17 **"Meeting"** means an Annual General Meeting or Extraordinary General Meeting of Unitholders convened in accordance with the provisions of this Trust Deed;
- 1.1.18 **"Net Asset Value of the Fund"** means the value of all investments and other assets of the Fund after adjustments and/or deductions in respect of all liabilities pertaining thereto, including but not limited to the cost of the Initial Public Offering, the remuneration of the Fund Manager, the Trustee, the Registrar and the Auditor;
- 1.1.19 **"Net Income Proceeds"** means the income proceeds of the Fund after necessary deductions in respect of any tax, duty, costs, charges or expenses payable in connection with the collection or realisation of such income proceeds;
- 1.1.20 **"Ordinary Resolution"** means a resolution passed by a simple majority of votes cast by Unitholders entitled to vote at a Meeting and present either in person or by proxy at such Meeting;
- 1.1.21 **"Register"** means the register of Unitholders;
- 1.1.22 **"Registrar"** means First Registrars Limited or any other registrar subsequently appointed in accordance with clause 14;
- 1.1.23 **"Special Resolution"** means a resolution passed by not less than three-fourths of the votes cast by Unitholders entitled to vote and present either in person or by

proxy at a Meeting; provided that at least 21 days notice, specifying the intention to propose the resolution as a Special Resolution, has been duly given to Unitholders;

1.1.24 **"Trust"** means the trust constituted by this Trust Deed;

1.1.25 **"TIA"** means the Trustee Investment Act Cap T22 LFN 2004;

1.1.26 **"Unit"** means a unit of the Fund representing one undivided share in the Deposited Property;

1.1.27 **"Unitholder"** means any person whose details for the time being are entered in the Register as a holder of Units, including persons so entered as joint Unitholders.

1.2 Interpretations

1.2.1 Words importing the singular number shall include the plural and vice-versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

1.2.2 Any reference to a statutory provision shall be deemed to include that statutory provision as the same may from time to time be modified, amended or re-enacted.

1.2.3 Headings of clauses, paragraphs and schedules herein are inserted for convenience only and shall not affect the construction of the provisions of such clauses, paragraphs and schedules.

1.2.4 References to this Trust Deed include the schedules hereto.

1.2.5 The words "written" or "in writing" shall include printing, engraving, lithography or other means of visible reproduction.

1.2.6 An expression importing a natural person shall include any company, partnership, trust, joint venture, association, corporation and other body corporate.

1.2.7 Unless otherwise stated, any reference in this Trust Deed to a clause, party, or schedule is a reference to clauses of, parties to, or schedules to, this Trust Deed.

1.2.8 A reference to a document shall be construed as a reference to such document as same may from time to time be amended, restated, supplemented, novated or otherwise modified but disregarding any amendment, restatement, supplement, novation or other modification made in breach of this Trust Deed.

1.2.9 References to “cash” shall include cheques, bank drafts, money orders, postal orders, currency, notes and coins.

1.2.10 Business Day Adjustment

Where the day on or by which a payment is due to be made, or an event due to occur, is not a Business Day, that payment shall be made or that event shall occur on or by the next succeeding Business Day, unless that next succeeding Business Day falls in a different calendar month, in which case that payment shall be made or that event shall occur on or by the immediately preceding Business Day.

2. The Trust Deed

The provisions of this Trust Deed and of any duly executed deed supplemental hereto shall be binding on the Trustee, the Fund Manager, the Unitholders and all persons claiming through them, as if such persons had been parties to this Trust Deed and such supplemental deed.

3. Nature and Type of the Investment Fund

3.1 SIM CAPITAL ALLIANCE VALUE FUND is a close-ended collective investment scheme designed to enable Unitholders benefit from investments in listed Nigerian equities, fixed income investments and such other securities as may be approved by the Commission from time to time.

3.2 The primary objective of the Fund is to achieve long-term capital growth and income distribution through investment in selected portfolios of securities (including those mentioned in clause 3.1 above) which the Fund Manager has identified as being under-valued and offering above-average growth potentials.

4. Offer of Units

4.1 The initial offer of Units in the Fund to the public shall comprise of Fifty Million (50,000,000) Units of One Hundred Naira (₦100.00) each at One Hundred and Three Naira Fifty Kobo (₦103.50k) per Unit.

4.2 The Fund Manager, being the promoter of the Fund, shall subscribe for a minimum of ten percent (10%) of the Units on offer under the Initial Public Offering.

4.3 The Units offered under the Initial Public Offer shall be payable in full on application.

5. Financial Year

The financial year of the Fund shall run from the 1st day of January to the 31st day of December every year.

6. Rights of Unitholders

- 6.1 The Unitholders shall not have or acquire any right against the Fund Manager or the Trustee in respect of their investments except those rights expressly conferred on them by this Trust Deed or any deed supplemental hereto or any legislation, regulation or court order.
- 6.2 The Deposited Property shall be held as a single common fund and no Unit thereof shall confer any interest or share in any particular part of the Deposited Property.
- 6.3 No person shall be recognized as a Unitholder unless he has been registered as such in the Register.
- 6.4 Nothing contained herein shall prevent the Fund Manager from subscribing for and being registered as a holder of Units in the Fund.
- 6.5 Unitholders shall be entitled to receive Distributions and shall be entitled to all other rights which attach and or accrue to the Units, pursuant to the provisions of this Trust Deed.
- 6.6 Unitholders shall be entitled to sell all or any portion of their Units in the Fund on the floor of The Exchange, at the prevailing trading price of the Units on the date of sale. Such sale shall be in accordance with the rules, regulations and practices governing trading in securities on the floor of The Exchange. The Unitholder and or the transferee of the Units shall bear the costs of the sale; and for the avoidance of doubt, the Fund Manager and the Trustee shall not be liable to bear any costs arising from or incidental to any sale of Units. The Unitholders shall indemnify the Fund Manager and Trustee for any costs incurred by the Fund Manager or Trustee in relation to the sale of Units.

7. Constitution and Trust of Deposited Property

- 7.1 The Trustee shall be vested with, and stand seised of, the Deposited Property upon trust for all the Unitholders. All property including cash which ought to, in accordance with the provisions of this Trust Deed, form part of the Deposited Property shall forthwith, after receipt by the Fund Manager, be vested in the Trustee.

- 7.2 The Trustee shall at all times retain in its possession (or in the possession of such third parties as it may with the consent of the Fund Manager appoint as its agents in that behalf), all the investments and documents of title or value connected therewith actually received by the Trustee or its nominees; and shall be responsible for the safe custody of such investments and documents of title or value connected therewith; and so far as practicable, the realization of the income proceeds in respect of such part of the investments as may be within it or its nominee's or agent's control.
- 7.3 The Trustee shall whenever it becomes necessary to enforce the terms and conditions of this Trust Deed act within 30 Business days, provided that the Trustee shall inform the Commission of any breach of the terms and conditions of the Trust Deed not later than 10 business days after the breach.

8. Investment of, and Dealings in, the Deposited Property and Accounts of the Fund

- 8.1 The Fund shall be constituted from the proceeds of sale of Units in the Fund under the Initial Public Offering and any subsequent offering approved by the Commission.
- 8.2 The Fund Manager shall, with the Trustee's approval, open or operate bank accounts in the name of the Fund including, but not limited to, a SIM Capital Alliance Value Fund Trading Account and a SIM Capital Alliance Value Fund Expense Account.
- 8.3 Any accounts opened pursuant to clause 8.2 herein shall be managed by the Fund Manager with the Trustees as joint signatories; and the Fund Manager shall furnish:
- (i) the Commission and the Trustee with reports on such accounts opened;
 - (ii) the Unitholders with audited financial statements on the Fund, once every year.
- 8.4 The Fund shall be invested by the Fund Manager, with the Trustee's consent, in all or any of the asset classes and in accordance with the maximum proportions specified in the table below:

Asset Class	Range
8.4.1 Listed Equities	25% to 85%
8.4.2 Fixed Income Investments -	15% to 50%

8.4.3 Cash 0% to 5%

8.4.4 Other SEC-approved Collective Investment Schemes up to the maximum prescribed by the Commission

The Fund may also be invested in any other securities as may be approved by the Commission from time to time. In the event that the Commission grants approval for the Fund to invest in unlisted equities or other securities, the Fund Manager may invest up to the maximum proportions prescribed by the Commission which shall be specified in the relevant Supplemental Trust Deed.

8.5 The Fund will not:

8.5.1 take or seek to take legal or management control of an investee company or any of its underlying investments;

8.5.2 invest more than twenty percent (20%), on aggregate, of the Net Asset Value of the Fund in funds whose principal investment objectives include investing in other funds;

8.5.3 short sell securities;

8.5.4 be geared or leveraged through investment in any security including, but not limited to, warrants;

8.5.5 invest in derivative instruments;

8.5.6 invest in any investment that would cause the value of the part of the Fund invested in the securities referred to in Section 2(1) of the TIA to exceed one third of the total value of the Fund;

8.5.7 invest in any investment that would cause the value of part of the Fund so invested in the shares and debentures of a particular company to exceed one tenth of the total value of the Fund;

8.5.8 invest in any investment that would cause the value of part of the Fund so invested in the shares of a particular company to exceed one twentieth of the total value of the Fund.

8.6 Except for the benefit of the Unitholders and with the prior written approval of the Trustee, the Fund Manager shall not cause any investment to be made or enter into any transaction capable of resulting in all or any part of the Deposited Property being mortgaged, pledged, charged or in any other way being offered as security in

any form. Neither shall the Fund Manager borrow or obtain any credit facility for the purpose of financing the Fund's investments; PROVIDED THAT a Unitholder may use his Holdings as security for any transaction entered into by the Unitholder.

- 8.7 The Fund shall not be invested in the securities of any company in which officers of the Fund Manager, or any of its affiliates, beneficially own (a) 0.5% of the securities of such company, individually; and (b) more than 5% of the securities of that company, collectively.
- 8.8 The Fund Manager shall not invest the Fund in instruments created by itself, the Trustee or any of their associates.
- 8.9 Neither the Fund Manager nor the Trustee, or any of their affiliates shall act as principals in any sale of the Deposited Property or any part thereof.
- 8.10 The valuation of the Fund shall be carried out by the Fund Manager on a quarterly basis or such other period as may be determined by the Fund Manager. Upon every valuation of the Fund, the Fund Manager shall provide to each Unitholder, a statement showing the value of the Fund.

9. Investment Policy and Investment Outlets

- 9.1 The Fund shall be invested in Authorized Investments (in accordance with clause 8.4).
- 9.2 The Fund Manager shall not alter the investment policy of the Fund without the approval of the Trustee and an Ordinary Resolution of Unitholders at a Meeting duly convened and held in accordance with the provisions of Schedule One; and subject to the prior approval of the Commission.

10. Right to decide on Investments

- 10.1 Subject to the provisions of section 171 of the ISA, the Fund Manager shall have the right to decide as to the purchase, selection, sale or alteration of any investments under the provisions of this Trust Deed; provided the Fund Manager notifies the Trustee of such decision.
- 10.2 Save pursuant to an offer made jointly to all holders of units of another authorized close-ended fund, for the exchange of such units or cash or other property represented thereby for Units of the Fund, neither the Trustee nor the Fund Manager nor any associate of either shall, as principal, sell or deal in the sale of investments to the Trustee for account of the Fund or vest Deposited Property in the Trustee upon the issue of Units and the Trustee and the Fund Manager shall

(without incurring any liability for a failure to do so) use their best endeavours to procure that no such sale, dealing or vesting shall be made by any Directors of the Trustee or the Fund Manager or of any associate.

PROVIDED that the restriction imposed by this clause shall not apply to any sale, dealing or vesting in connection with the provision of the initial portfolio of investments by the Fund Manager.

11. Realization of Investment

Any monies accruing from investments of the Fund shall be treated as realized investments. The Fund Manager shall have the discretion, subject to the agreed investment guidelines, to reinvest any realized investment comprised in the Deposited Property in other Authorized Investments at any time; PROVIDED ALWAYS THAT the Fund Manager is diligent and prudent in exercising this discretion.

12. Change in Investments

12.1 It shall not be necessary for either the Fund Manager or the Trustee to effect any change of investments by reason of any appreciation in the value or the aggregate value of any investments in any one company or body, or of any security or any depreciation in the value or the aggregate value of any investments causing the limits referred to in clause 8.4 to be exceeded nor by reason of the said limits being exceeded as a result of either:

12.1.1 the receipt by the Trustee or its nominee of any rights bonuses or benefits in the nature of capital;

12.1.2 any scheme or arrangement for amalgamation, reconstruction, conversion or exchange; or

12.1.3 an appreciation in the capital value of any equity acquired by the Fund.

Provided that the entire Fund shall be rebalanced within a reasonable timeframe.

12.2 The Fund Manager shall not purchase any additional investments which would result in any of the said limits being exceeded. If at any time the Fund Manager determines to sell any investments for the purpose of a reduction of the Fund, it shall before selling any other investment, sell so much of the investment or investments in respect of which any of the said limits is exceeded as is necessary to effect the reduction; PROVIDED that if the Fund Manager is satisfied and the Trustee agrees that the sale of such investment or investments at that time would

be against the interests of the Unitholders such investment or investments need not be sold.

13. Issue of New Units

The Fund Manager shall not issue and/or offer Units in addition to those offered under the Initial Public Offering without the prior approval of the Commission.

14. Appointment of Registrar

14.1 The Fund Manager shall, with the consent of the Trustee, appoint a Registrar for the purposes contemplated in clause 15 and Schedule Three.

14.2 Where the Fund Manager, in consultation with the Trustee, for good and sufficient reason, is of the opinion that a change of Registrar is desirable in the interest of the Unitholders, it shall notify the Registrar accordingly and the Registrar shall within thirty (30) Business Days, transfer all records, certificates, documents and registers kept or maintained by it with regards to the Fund to the Fund Manager and the Fund Manager will thereafter take such steps as may be necessary to appoint a new Registrar. PROVIDED however that the appointment of a new Registrar will be subject to the prior approval of the Commission and notice of such change or appointment shall be advised to Unitholders, in the manner provided under clause 36, within five (5) Business Days of the date such appointment takes effect.

15. Registration of Unitholders

15.1 The Register shall be kept and maintained by the Registrar.

15.2 The Register shall contain the names and addresses of each Unitholder, the number of Units held, the nominal value, the date of purchase, the certificate number (if applicable) and any other information that may be deemed necessary by the Fund Manager. Where there are joint Unitholders, their respective names and addresses may be inserted provided that the details of not more than two Unitholders shall be entered in the Register in respect of any one Holding.

15.3 Any change of name or address of any Unitholder shall forthwith be notified in writing to the Registrar who, on being satisfied therewith and in compliance with all such formalities as it may require, shall cause the Register to be altered or the change to be registered accordingly.

15.4 A Unitholder shall be entitled during business hours to inspect the Register at no cost, upon giving at least one (1) Business Day prior written notice to the Registrar; PROVIDED ALWAYS that for the purposes of this sub-clause, the production of a

legible copy of the contents of the Register shall be satisfactory proof of its contents where the Register is maintained in or by some mechanical or electronic system.

- 15.5 The Register shall be conclusive evidence as to the Units held by each Unitholder.
- 15.6 A body corporate may be registered as a Unitholder or one of joint Unitholders.
- 15.7 In the event of the death of a Unitholder, only the legally appointed executors or administrators of the estate of the deceased Unitholder (not being one of the joint Unitholders) or the surviving Unitholder(s) of joint Unitholders shall be recognized by the Registrar as having any title to or interest in the deceased Unitholder's Units.
- 15.8 Any person becoming legally entitled to any Units in consequence of the death, bankruptcy, dissolution or winding-up of any Unitholder, or upon a declaration that a Unitholder is a lunatic shall, upon producing such evidence to the satisfaction of the Registrar substantiating his claim and on delivering up the Certificate(s) of the deceased, bankrupt or lunatic Unitholder, or resolution of dissolution or winding-up to the Registrar for cancellation, be entitled to elect either to be registered, or to have some other persons nominated by him registered, as a Unitholder in respect of such Unit(s) and to have a new Certificate(s) issued accordingly. If the person so becoming entitled to Units elects to be registered, himself, as a Unitholder, he shall deliver or send to the Registrar, notice in writing in a form to be prescribed by the Registrar signed by him stating that he elects to be so registered. If he elects to have some other person nominated by him registered as the Unitholder, he shall testify his election as if the death, bankruptcy or lunacy, or the dissolution or winding-up of the Unitholder had not occurred and the notice or transfer were a transfer executed by such Unitholder.
- 15.9 Any person becoming entitled to Units as a result of the death, bankruptcy or lunacy, or dissolution or winding-up of a Unitholder shall, once he has offered sufficient evidence of such entitlement to the Registrar even if actual registration has not yet taken place, be entitled to receive and may give a discharge for monies payable in respect of such Units. However such person shall not be entitled to all the other rights of a Unitholder until he shall have been registered in respect of the Unit(s).
- 15.10 The number of Units held by a Unitholder shall be registered and recorded by the
- 15.11 Registrar as a book entry.

16. Issue of Certificates

- 16.1 Subject to any regulatory directive(s) requiring all Holdings to be dematerialized, Unitholders who elect to have their Holdings evidenced by a Certificate shall be issued a Certificate in respect of their Holdings.
- 16.2 Joint Unitholders who elect to have their Holdings evidenced by a Certificate shall be entitled to only one Certificate for Units jointly held by them, which Certificate shall be issued in the names of the joint Unitholders. Delivery of a Certificate to one of several joint Unitholders shall be sufficient delivery to all such joint Unitholders.
- 16.3 Notwithstanding anything contained in these presents, a Unitholder shall be entitled (i) to be issued a Certificate in order to have his Units credited to a CSCS account; or (ii) to elect that Units be credited directly to a CSCS account at the time of the issuance of such Units.

17. Form of Certificates

- 17.1 All Certificates shall specify the serial number thereof and the number of Units represented thereby and shall be in such form as is prescribed in Schedule Two or such other form as the Trustee and Fund Manager may agree.
- 17.2 All Certificates shall be issued under the seal of the Fund Manager and the Trustee.

18. Worn-Out Defaced Lost or Destroyed Certificates

- 18.1 If any Certificate becomes worn-out, mutilated, defaced or soiled in such a manner as to make identification questionable, the Registrar, with the approval of the Trustee, may cancel such Certificate and issue a new Certificate in its place.
- 18.2 If any Certificate is lost, stolen or destroyed, then upon proof thereof to the satisfaction of the Registrar and upon furnishing such indemnity (if any) as the Registrar may deem necessary, a new Certificate may be issued in lieu of the lost, stolen or destroyed Certificate. An entry as to the issuance of a new Certificate and the provisions of indemnity (if any) shall be made in the Register.

19. Voting Rights on Deposited Property

- 19.1 All rights of voting conferred by the investments of the Deposited Property shall vest in the Trustee, who hereby authorizes the Fund Manager to exercise such rights. Such voting rights shall be exercised in such manner as the Fund Manager may direct, in writing, and the Fund Manager may refrain (at its own discretion) from exercising any voting rights. No Unitholder shall have any right to interfere with the

Fund Manager's discretion. The Trustee shall, upon written request by and at the expense of the Fund Manager from time to time, execute and deliver or cause to be executed or delivered to the Fund Manager or its nominees such powers of attorney or proxies in such name(s) as the Fund Manager may request, authorizing such attorneys and proxies to vote, consent to or otherwise act in respect of all or any part of the Authorized Investment.

- 19.2 The Fund Manager shall be entitled to exercise the rights mentioned in sub-clause 19.1 in what it considers to be the best interest of the Unitholders. Neither the Fund Manager nor the Trustee shall be under any liability or responsibility in respect of the management of an investment nor in respect of any vote, action or consent given or taken (or not given or taken) by the Fund Manager whether in person or by proxy; and neither the Trustee, the Fund Manager nor the Unitholder or any such proxy or power of attorney shall incur any liability or responsibility by reason of any error of law or mistake of fact, or any matter or thing done or omitted or approval voted or given or withheld by the Trustee or Fund Manager or by the Unitholder of such reason of any error of law, mistake of fact, or any matter or thing done or omitted, or approval voted or given or withheld by the Trustee. The Trustee shall be under no obligation to anyone in respect of any action taken or caused to be taken or omitted by the Fund Manager, or by any such proxy or attorney.
- 19.3 The phrase "voting rights" or the word "vote" used in this clause shall be deemed to include not only a vote at a meeting but any consent to, or approval of, any arrangement, scheme or resolution or any alteration in or abandonment of any rights attaching to any part of the Deposited Property 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.
- 19.4 The Trustee shall without delay, forward to the Fund Manager all notices of meetings, reports, circulars and other documents of a like nature received by it or its nominee as a registered holder of any investment.

20. Distribution of Income/Reinvestment

The income of the Fund less any sums properly chargeable on or deductible therefrom may either be reinvested or distributed to the Unitholders in such form, manner and amount for such periods and at such times as the Trustee may approve from time to time, upon the recommendation of the Fund Manager and in accordance with applicable law and the rules of the Commission.

21. Indemnities, Rights and Duties of Trustee and Fund Manager

Without prejudice to any indemnity allowed by law or elsewhere herein granted to the Trustee or to the Fund Manager, the following provisions shall apply:

- 21.1 The Trustee and Fund Manager shall not be responsible for the authenticity of any form of application or other documents affecting the title to, or transmission of, Units or be liable for any forged or unauthorized signature on, or seal affixed to, such document or for acting on, or giving effect to, any such forged or unauthorized signature or seal; PROVIDED that they have exercised due care and diligence in examining the signature or seal.
- 21.2 Neither the Trustee nor the Fund Manager shall incur liability in respect of any action or omission by it, in good faith, in reliance on any notice, resolution, direction, consent, certificates, affidavit, statement, certificate of stock, plan or other document it believes to be genuine and to have been passed, sealed or signed by the proper parties.
- 21.3 Neither the Trustee nor the Fund Manager shall be liable to the Unitholders for doing or failing to do any act or thing by reason of the provisions of any present or future law or regulation or of any decree, order or judgment of any court or action (whether of binding legal effect or not) taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) where the Trustee or Fund Manager shall be directed or requested to do or perform or to refrain from doing or performing.
- 21.4 The Trustee and Fund Manager shall be entitled to require that the signature of any Unitholder or joint Unitholders to any document required to be signed by him under or in connection with this Trust Deed shall be verified by a banker or broker or other responsible person or otherwise authenticated to their reasonable satisfaction.
- 21.5 The Trustee shall not, by reason of its office, be precluded from purchasing, holding, dealing in or disposing of Units nor from contracting or entering any financial, banking or other transaction with the Fund Manager or any Unitholder or any company or body with an interest in any Unit(s) or from being interested in any such contract or transaction or from holding any shares or any investment in any such company or body; and the Trustee shall not, except as otherwise herein provided, be liable to account either to the Fund Manager or to the Unitholders or any of them for any profits or benefits made or derived by the Trustee thereby or in connection therewith.

- 21.6 The Trustee shall not be under any obligation to appear in, prosecute or defend any action or suit in respect of the provisions hereof or in respect of the Deposited Property or any part thereof or take part in or consent to any corporate action which, in its opinion, might result in its liability or its incurring expenses except where such action or suit arises as a result of gross negligence of the Trustee.
- 21.7 Subject to the prior consent of the Trustee in each case, the Fund Manager may from time to time, for the account of the Fund, enter into underwriting and sub-underwriting contracts in relation to the subscription or purchase of Authorised Investments upon such terms as it shall think fit (but subject always to the provisions of this Trust Deed and so that no such contract shall relate to an investment which, if acquired, would constitute a holding in excess of the limits specified in clause 8.4 hereof) and all commissions or other fees received by the Fund Manager and all Authorised Investments or cash acquired pursuant to any such contract shall form part of the Deposited Property.
- 21.8 The Trustee shall not be liable to account to any Unitholder or otherwise for any payment made or suffered by the Trustee in good faith in any way arising out of or relating to any transaction of whatsoever nature under this Trust Deed notwithstanding that any such payments need not have been made or suffered.
- 21.9 The Trustee shall not be under any liability on account of anything done or suffered by it in good faith, in accordance with or pursuant to any request, notice, direction or advice of the Fund Manager. Whenever a notice or other communication is required to be given by the Fund Manager to the Trustee, the latter accepts as sufficient evidence thereof a document signed on behalf of the Fund Manager by any person whose signature the Trustee is for the time being authorized in writing by the Fund Manager to accept.
- 21.10 The Trustee shall, as regards all the powers and discretion vested in it by this Trust Deed, have absolute discretion as to the exercise or non-exercise thereof. In the absence of fraud and negligence, the Trustee shall not in anyway be responsible for any loss, costs or damages that may result from the exercise or non-exercise of such discretion.
- 21.11 The Trustee may act upon the advice, statement or information obtained from stockbrokers, accountants, lawyers, bankers or other persons believed by the Trustee in good faith to be experts in the matters on which they have been consulted, whether instructed by the Trustee or Fund Manager and the Trustee shall not be liable for anything done or omitted or suffered to be done by it in reliance upon such advice statement or information.

- 21.12 The Trustee shall not be responsible for any misconduct, mistake, oversight or error or want of judgment or want of prudence on the part of any lawyer, banker, accountant, broker or other person acting hereunder as agent or adviser of the Trustee, where such agent or adviser was acting on the instruction of the Trustee and within the course and scope of its appointment; PROVIDED that the Trustee shall be entitled to be indemnified by such agent or adviser.
- 21.13 The Fund Manager shall not be liable to make any payment hereunder to any person except out of the monies of the Fund set aside for that purpose under the provisions of this Trust Deed.
- 21.14 If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Trust Deed, the Fund Manager or the Trustee shall not be under any liability thereof or thereby. Neither the Fund Manager nor the Trustee shall incur liability for any error of law, in the absence of fraud or negligence, in connection with any matter or thing done or suffered to be done or omitted to be done by them in good faith hereunder; PROVIDED ALWAYS THAT nothing in this sub-clause may be construed as exempting the Trustee from, or indemnifying the Trustee against, liability for breach of trust arising from any fraudulent or negligent act or omission on its part or any other breach of duty hereunder.
- 21.15 The Fund Manager shall not be under any liability except such liability as may be expressly assumed by it under this Trust Deed or imposed on it by law; nor shall the Fund Manager, save as herein otherwise appears, be liable for any act or omission of the Trustee nor for anything except its own breach of duty hereunder.
- 21.16 In no event shall the Trustee be bound to make any payment to any person except out of the funds held by it for that purpose under the provisions of this Trust Deed.
- 21.17 The Trustee shall not be liable for acting on any resolution purporting to have been passed at a Meeting in respect whereof minutes shall have been made and signed, even though it may be subsequently found that there was some defect in the constitution of the Meeting or the passing of the resolution or that, for any reason, the resolution was not binding upon all the Unitholders.
- 21.18 The Trustee covenants that, with the exception of the selection of investments, effective control over the affairs of the Trust will be exercised by it independent of any other person except as otherwise set out herein.
- 21.19 The Trustee undertakes to notify the Commission of any proposed change in the management of the Fund.

21.20 Subject to the provisions of this Trust Deed, the selection of all investments, whether partly paid or not, and the retention of cash shall, in all respects, be the sole responsibility of the Fund Manager who shall exercise due diligence and prudence in its selection process, having due regard to the investment policy of the Fund. The Trustee shall not be required to enquire whether any such selection or retention or other dealing effected by, or at the discretion of, the Fund Manager infringes the investment policy of the Fund.

21.21 The Fund Manager shall be entitled, subject to the consent of the Trustee, to delegate to any person, firm or corporation (the "Delegate") upon such terms and conditions as it may think fit all or any of its powers and discretion in relation to the selection, acquisition, holding and realization of investments and applications of any monies forming part of the Deposited Property; PROVIDED THAT the Fund Manager shall remain liable for any act or omission of such Delegate in relation to the exercise or non-exercise of any powers or discretion so delegated, as if the same were an act or omission of the Fund Manager.

21.22 The Trustee covenants that reporting lines shall be pre-agreed with the Fund Manager in order to monitor the performance of the Fund Manager.

21.23 The Trustee covenants that all necessary returns with respect to the Fund, required to be made by it to the Commission shall be filed timeously.

21.24 The Trustee undertakes to ensure that the Registrar maintains electronic and physical parallel records of Certificates.

21.25 The Trustee covenants that arrangements for the custody of the Deposited Property shall be pre-agreed with the Fund Manager. Provided that such arrangements shall take cognizance of the dynamics of the operation of the Fund and shall in no way impair same. The Trustee may appoint such agent or custodian as it deems necessary for the safe custody of the Deposited Property.

21.26 The Trustee covenants that it shall communicate to the Fund Manager any useful market intelligence within its knowledge that would ensure that the Fund functions effectively.

22. Fund Manager and Trustee acting for other Funds or Trusts

The Fund Manager and Trustee shall be entitled, whether in conjunction or separately, to establish and act as fund manager or trustee for other funds or trusts separate and distinct from the Fund or the Trust.

23. Payment to Trustee and Fund Manager

- 23.1 The Fund Manager shall, on behalf of the Fund, pay all traveling and other costs, charges and expenses that the Trustee reasonably incurs in connection with the execution of the Trust and in the exercise of the powers and discretion hereby vested in it.
- 23.2 All costs, expenses, charges or remuneration due to the Trustee shall be payable upon demand. However the Trustee shall always provide the Fund Manager with invoices/receipts for all expenses incurred.
- 23.3 The Fund Manager shall, on behalf of the Fund, pay the Trustee an annual fee, which shall be calculated as 0.035% of the Net Asset Value of the Fund in addition to a one-off fee of ₦600,000 (Six Hundred Thousand Naira only) payable on appointment of the Trustee. The Trustee's fees may be revised annually, at the beginning of a financial year, subject to the approval of the Unitholders at a Meeting. The Trustee's fees shall be payable out of income in arrears, semi-annually, on the 31st of July and 31st of January, respectively.
- 23.4 The Fund Manager shall be entitled, to charge:
- 23.4.1 an annual management fee of 1.5% of the Net Asset Value of the Fund per annum, payable quarterly and in arrears, at a rate of 0.375% of the Net Asset Value of the Fund; and
- 23.4.2 an incentive fee which shall not exceed 30% of the total returns in excess of 10% of the Scheme's net asset value per annum.
- 23.5 Notwithstanding the provisions of any other agreement, the total fees and expenses chargeable to the Fund shall not exceed 5% of the Net Asset Value of the Fund.

24. Conditions for Effecting Transactions or Dealings

Notwithstanding anything contained herein, the Trustee, Fund Manager and/or any other party shall not be required to effect any transaction or dealing with any Unitholder or with any part of the investments of the Deposited Property on behalf, or for the benefit, or at the request of any Unitholder unless such Unitholder shall first have paid to the Trustee, Fund Manager or such other party to its or their satisfaction (as the case may be) such amount sufficient to cover all duties and charges and any necessary stamp duty which may have become or may be payable in respect of, or prior to, or upon the occasion of, such transaction or dealing. PROVIDED ALWAYS that the Trustee, Fund Manager or such other party shall be entitled to as it or they may think fit, pay and discharge all or any of such duties, charges or stamp duty on behalf of the Unitholder and to retain the amount so paid

out of any money or property to which such Unitholder may be or become entitled in respect of his Unit or otherwise however hereunder.

25. Preparation and payment of Cheques, Warrants etc.

The Registrar shall prepare and pay all cheques and warrants.

26. Preparation of Notices, Accounts etc.

The Fund Manager shall prepare all notices, accounts, summaries, declarations, offers or statements required to be prepared, issued, served or sent under the provisions of this Trust Deed.

27. Covenants by the Fund Manager

The Fund Manager hereby covenants with the Trustee that it shall:

- 27.1 not make a profit for itself from dealings in any assets held under the Fund;
- 27.2 not borrow money on behalf of the Fund for the purpose of acquiring securities or other property for the Fund or otherwise;
- 27.3 not lend money that is subject to this Trust to a person to enable such a person to purchase Units;
- 27.4 not mortgage, charge or otherwise encumber any securities or other property subject to this Trust;
- 27.5 not engage in any transactions with respect to or for the Fund that are not in the best interests of Unitholders and the Fund;
- 27.6 not deviate from the investment policy of the Fund without due recourse to the provisions of the law on same; PROVIDED ALWAYS that it shall obtain the prior approval of the Commission and the Trustee therefor;
- 27.7 exercise due care and prudence in all its dealings with the monies of the Fund;
- 27.8 give written notice to the Commission of any proposal to alter the Trust Deed or replace the Trustee, as required by section 162 of the ISA;
- 27.9 maintain proper books of accounts, remit quarterly statements of the books of the Fund to the Trustee within 21 days of the end of every calendar quarter and provide

to the Trustee such necessary information as the Trustee may require from time to time in respect of the Fund, upon receipt of a written request from the Trustee

28. Removal or Retirement of Fund Manager

28.1 In the event of the Fund Manager desiring to retire, the Trustee shall use its best endeavours to find a new Fund Manager. If within the six (6) months notice period of the Fund Manager's intention to retire, no suitable replacement Fund Manager is identified, the Trustee may terminate the Trust by notice to this effect issued to the Unitholders, the Fund Manager and the Commission.

28.2 The Fund Manager may be removed by notice in writing given by the Trustee, in any of the following circumstances:

28.2.1 the Unitholders representing more than 75% of the value of Units for the time being outstanding deliver to the Trustee a request, in writing, demanding that the Fund Manager be removed or;

28.2.2 the Fund Manager goes into liquidation (except for a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustee) or if a receiver is appointed over any of its assets; or

28.2.3 the Trustee certifies and provides evidence to the satisfaction of the Commission to the effect that the Fund Manager has been fraudulent or has acted with gross misconduct in its management of the Fund and that it is in the best interests of the Unitholders that the Fund Manager should be removed.

PROVIDED THAT in every case, the proposed removal has been approved by the Commission or one month has elapsed since the date on which notice was served on the Commission without the Commission communicating its objection to the removal.

28.3 In any of the cases, enumerated in clause 28.2 above, the Fund Manager shall, upon receiving notice from the Trustee *ipso facto* cease to be the Fund Manager; and the Trustee shall, in writing under its seal, subject to approval by the Commission, appoint some other qualified corporation to be the Fund Manager (the "**New Fund Manager**"). Such New Fund Manager shall enter into such deed(s) as the Trustee may advise are necessary or desirable to be entered by the New Fund Manager in order to secure the due performance of its duties as Fund Manager which deed(s) shall, if so required by the outgoing Fund Manager, provide that neither the Trustee nor the New Fund Manager shall hold themselves out as being

connected with the outgoing Fund Manager in any way and furthermore provide that the New Fund Manager shall purchase from the outgoing Fund Manager all Units held by the outgoing Fund Manager as Unitholder.

29. Removal or Retirement of Trustee

29.1 In the event of the Trustee desiring to retire:

29.1.1 the Trustee shall first give to the Fund Manager and the Commission at least six months' prior written notice of its intention to so retire, giving reasons for the withdrawal; and

29.1.2 the Fund Manager shall use its best endeavours to find a new Trustee within the notice period furnished by the Trustee in accordance with clause 29.1.1. The new Trustee shall be an incorporated company registered with the Commission and approved by a majority of the Unitholders. If no new Trustee can be identified within that notice period the Fund Manager may terminate the Trust.

29.2 The Trustee may be removed by notice in writing given by the Fund Manager in any of the following circumstances:

29.2.1 if Unitholders holding not less than 75% of the value of the Units outstanding deliver to the Fund Manager a request in writing that the Trustee should retire;

29.2.2 if the Trustee goes into liquidation (except for a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Fund Manager) or if a receiver is appointed over any of its assets;

29.2.3 if in the opinion of the Fund Manager, as confirmed by Unitholders holding a simple majority of the Units outstanding, the Trustee is incapable of performing or in fact fails to perform its duties satisfactorily or does any other thing which, in the reasonable opinion of the Fund Manager and of Unitholders holding a simple majority of Units outstanding, is calculated to bring the Fund into disrepute or be harmful to the best interests of the Unitholders or is a breach of the Trustee's fiduciary duties to the Unitholders.

PROVIDED THAT in each case, the Fund Manager shall give notice to the Commission giving reasons for the removal and the removal shall be subject to the

approval of the Commission. The Fund Manager shall also give reasons for the suitability of the new Trustee to be appointed in the Trustee's place.

29.3 Where the appointment of a Trustee is terminated the Trustee shall, within seven (7) days, submit a report to the Commission stating:

29.3.1 the assets and liabilities of the Fund;

29.3.2 whether any irregularity or undesirable practice has taken place or is taking place in the conduct of the affairs of the scheme which has caused or is likely to cause financial loss in the Fund;

29.3.3 particulars of any such irregularity or undesirable practice;

29.3.4 the reason, if known, for the termination of its appointment

29.4 Upon removal of the Trustee, the Fund Manager shall, in writing under its seal, subject to the approval of the Commission, appoint some other qualified corporation to act as the Trustee and such corporation shall enter such deed or deeds as the Fund Manager deems necessary or desirable to be entered by such corporation in order to secure the due performance of its duties as Trustee.

30. Auditors

30.1 The Auditors shall be appointed by the Fund Manager, with the approval of the Trustee. Any Auditor appointed by the Fund Manager shall be a person or company who is qualified for appointment as an Auditor of a company under Section 358 of the Companies and Allied Matters Act, Cap C20 LFN 2004 and registered by the Commission.

30.2 The Fund Manager shall, within thirty (30) days of such appointment, apply to the Commission for the approval of such appointment.

30.3 The Auditor may be removed by the Fund Manager, with the approval of the Trustee, upon furnishing reasonable notice of such removal to the Auditor.

30.4 The Auditor may be removed by the Trustee, with the approval of the Fund Manager, upon furnishing reasonable notice of such removal to the Auditor.

PROVIDED THAT the Fund Manager shall notify the Commission of the removal of the Auditor.

30.5 The remuneration of the Auditor or Auditors shall be fixed by the Fund Manager.

- 30.6 An Auditor of the Fund may resign its appointment by submitting at least one (1) month notice in writing to that effect at the registered office of the Trustee.
- 30.7 An Auditor's notice of resignation shall not be effective unless it contains either:
- 30.7.1 a statement to the effect that there are no circumstances connected with its resignation which it considers should be brought to the notice of the Unitholders; or
- 30.7.2 a statement setting out circumstances connected with its resignation which it considers should be brought to the notice of the Unitholders.
- 30.8 Where a notice under this section is submitted at the Trustee's registered office the Trustee shall within fourteen (14) days of receipt of such notice, send a copy of the notice to the Fund Manager.

31. Auditing of Accounts

- 31.1 At least once in every financial year, the Fund Manager shall cause the accounts relating to the management of the Fund to be audited and certified by the Auditors.
- 31.2 The results of the audit, together with any other accounts relating to the Trust, including accounts of the Fund Manager in relation to the Trust and statements of remuneration in connection therewith shall be circulated to Unitholders annually.
- 31.3 A copy of the Auditor's report(s) shall be sent by the Fund Manager to the Commission and also published in a national newspaper within three (3) months after the period to which the accounts relate or as the Commission may from time to time specify.
- 31.4 The Auditors shall certify that the Fund is being operated in accordance with the provisions of the ISA and the regulations of the Commission.

32. Duration and Termination of the Trust

- 32.1 The Trust shall subsist unless terminated in accordance with the provisions of this Trust Deed.
- 32.2 It is within the absolute discretion of the Trustee or Fund Manager to terminate the Trust by issuing no less than six (6) months notice thereof in writing to the other, as well as to the Unitholders and the Commission.

- 32.3 The Trust may be terminated upon less than six (6) months notice in writing, by the Trustee to the Fund Manager, Unitholders and Commission, in any of the following events:
- 32.3.1 if the Fund Manager goes into liquidation (except for a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Trustee) or if a receiver is appointed over any of its assets or if it ceases to carry on business; or
 - 32.3.2 if, in the opinion of the Trustee, the Fund Manager is incapable of performing or shall in fact fail to perform its duties satisfactorily or shall do any other thing which, in the opinion of the Trustee, is calculated to bring the Trust into disrepute or to be harmful to the best interests of the Unitholders; or
 - 32.3.3 if the Trust ceases to be primarily a close-ended Fund; or in the event of the Trust becoming illegal; or if, in the opinion of the Trustee, it has become impracticable or inadvisable to continue the Trust; or
 - 32.3.4 if the Fund's investment objectives are no longer feasible; or if the Commission revokes the authorization of the Fund; or
 - 32.3.5 upon the enactment of any legislation, the issuance of any regulation or the granting of any court order that makes the continuity of the existence of the Fund impracticable or illegal.
- 32.4 The Trust may, at any time, be terminated by a Special Resolution of the Unitholders at a Meeting duly convened and held in accordance with the provisions herein contained regarding Meetings and such termination shall take effect no less than six (6) months from the date on which the said Special Resolution is passed or on such later date (if any) as the said Special Resolution may provide.
- 32.5 The Trust may be terminated by the Commission where any of the activities of the Trust is outside the ambit of permissible activities, as provided for by the ISA, any relevant regulations enacted thereunder and/or any other applicable laws or where the Commission revokes its authorization of the Trust in exercise of powers conferred on it by the ISA.

33. Procedure after Termination of the Trust

Upon termination of the Trust, the Trustee shall:

- 33.1 procure the sale of all investments remaining in its possession as part of the Deposited Property and pay therefrom all liabilities properly payable. Such sale shall be carried out in such manner and within such period after the termination of the Trust as the Trustee thinks advisable.
- 33.2 distribute or procure the distribution to the Unitholders, in proportion to their Holdings, all net cash proceeds derived from the realization of the Deposited Property and available for the purpose of such distribution. Every such distribution shall be made on the condition that the Unitholders lodge such form of request for payment and receipt that the Trustee may, in its absolute discretion, require; PROVIDED THAT the Trustee shall be entitled to retain, out of any monies in its hands as part of the Deposited Property, a provision for all costs, charges, expenses, claims and demands incurred, made or apprehended by the Trustee in connection with, or arising out of, the termination of this Trust and out of the monies so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands.

34. Meetings

- 34.1 The Fund Manager shall, with the consent of the Trustee, call an Annual General Meeting of Unitholders not later than four months after the close of each financial year to consider the audited accounts of the Fund and any other matters affecting the Fund.
- 34.2 The provisions of Schedule One shall have effect as if same were included herein and shall apply to Meetings in so far as that Schedule does not conflict with any applicable law.

35. Circulars and Advertisements

- 35.1 No circular, advertisement, or statement with respect to the sale price of Units, the payments of benefits received or likely to be received by Unitholders, or invitation to buy Units without disclosing the yield from the Units shall be issued by or on behalf of the Fund Manager unless such circulars, advertisements, statement etc are approved by the Trustee and the Commission.
- 35.2 No circular, advertisement, or statement shall be issued if, within ten (10) days after same first comes under the Trustee's consideration, the Trustee notifies the Fund Manager in writing of its disapproval of the terms thereof.
- 35.3 In all circular, advertisement, statements or other publications referring to the issue or sale of Units reference shall be made to the Trustee only in terms previously consented to by the Trustee and the Commission.

36. Notices

- 36.1 All notices or other documents to be given or sent by the Trustee or the Fund Manager to a Unitholder shall (unless the Trustee or the Fund Manager otherwise directs, in writing) be sent by post, fax, telex, courier or electronic mail at the address of the Unitholder appearing in the Register or his application form for purchase of the Units. Any notice so sent shall be deemed to have been received by the Unitholder (i) on the same day as shown on the notice if sent by telex, fax or electronic mail, and (ii) on the third (3rd) day following the day on which the notice was sent by post or courier.
- 36.2 A notice required to be given to the Trustee or the Fund Manager shall be sent to the registered office address of the Trustee or the Fund Manager, as the case may be.

37. Payment

- 37.1 Any monies payable by the Trustee or by the Fund Manager to a Unitholder or former Unitholder under the provisions of these presents may be paid by (i) interbank transfer to the Unitholders' nominated bank account; or (ii) crossed-cheque or warrant made payable to the address of such Unitholder.
- 37.2 Where payments are made by crossed-cheque or warrant, every crossed-cheque or warrant shall be sent at the risk of the Unitholder or former Unitholder and payment of any such crossed-cheque or warrant shall be satisfaction of the monies payable thereby and shall be sufficient discharge of the Trustee and the Fund Manager.
- 37.3 Where an authority in writing in that behalf is received by the Trustee or Fund Manager from the Unitholder or former Unitholder designating a third party recipient in such form and signed or sealed in such manner as the Trustee or Fund Manager shall direct the Trustee, Fund Manager or Registrar shall pay the monies payable to the Unitholder as the case may be in the same manner and with the same effect as hereinbefore provided as if such third party recipient were the Unitholder.
- 37.4 Without prejudice to the foregoing provisions of this clause 37, a receipt signed or purported to be signed by the Unitholder or former Unitholder for any monies payable in respect of Units held or formerly held by him shall be sufficient discharge of the Trustee and Fund Manager.

38. Copies of Trust Deed to be Made Available

- 38.1 A copy of this Trust Deed and of any Deed supplemental hereto shall at all times, during usual business hours, be made available by the Fund Manager and the Trustee for inspection by Unitholders at their respective head offices; and any Unitholder shall be entitled to receive from the Fund Manager a copy of such Deed(s) as aforesaid on production of his Certificate(s) and paying the prescribed amount for each copy of the Deed(s) to the Fund Manager.
- 38.2 The Trustee shall keep the original(s) copy of the Trust Deed.

39. Reconstruction and Amalgamation

- 39.1 The Trust may be reconstructed or amalgamated where the following conditions are satisfied:
- 39.1.1 the Fund Manager has agreed with the fund manager of some other trust the terms and conditions of a scheme of reconstruction and amalgamation and has sought and received approval from the Commission to carry out the scheme of reconstruction and amalgamation;
 - 39.1.2 the Trustee has not dissented from the proposed reconstruction or amalgamation; and
 - 39.1.3 the Unitholders have been informed of the particulars of the proposed reconstruction or amalgamation in a manner approved by the Trustee and a Special Resolution has been passed at a Meeting of the Unitholders approving such proposed reconstruction or amalgamation.
- 39.2 If the conditions set out in clause 39.1 have been fulfilled the proposed reconstruction or amalgamation shall take effect on the date on which all of such conditions have been satisfied or such later date as the Trust may provide whereupon the terms of the Trust shall be binding upon all the Unitholders who shall be bound to give effect thereto accordingly and the Fund Manager and the Trustee shall do all such acts and things as may be necessary for the implementation thereof.

40. Power of Modification by Supplemental Deed

- 40.1 The Trustee and Fund Manager shall be entitled, by deed supplemental hereto, to consolidate, modify, alter or add to the provisions of this Trust Deed in such manner and to such extent as they may consider necessary or expedient, having regard to any issues that they may consider relevant; PROVIDED THAT the Trustee shall

certify, in writing, that in its opinion, such consolidation, modification, alteration or addition does not prejudice the interests of the Unitholders and that, in its opinion, such consolidation, modification, alteration or addition does not operate to release the Trustee or Fund Manager from any responsibility to the Unitholders.

- 40.2 No consolidation, modification, alteration or addition shall be made without the sanction of a Special Resolution passed at a Meeting duly convened and held.
- 40.3 No consolidation, modification, alteration or addition shall impose any further payment obligation on any Unitholder in respect of his Holdings or any liability in respect thereof.

PROVIDED ALWAYS that the Fund Manager and the Trustee shall seek the approval of the Commission for any proposed consolidation, modification, alteration or addition to the Trust Deed by service of notice on the Commission. Such proposed change shall not be given effect until the proposed change has been approved by the Commission or one month has passed since notice was served on the Commission without the Commission having notified the Fund Manager or Trustee that the proposed change is not approved.

41. Investment Committee

- 41.1 The Fund shall have an Investment Committee. The Investment Committee shall consist of six (6) persons nominated by the Fund Manager. The Fund Manager shall from time to time consult with the Investment Committee on its decisions to purchase, sell, or alter any investment in the Fund.
- 41.2 The Investment Committee shall meet at least once in every quarter and shall have the power to hold such meetings and take valid decisions through electronic mail and telephone conference calls.
- 41.3 The notice required for any meeting of the Investment Committee of the Fund shall be twenty-one (21) days exclusive of the date of service and the date of the meeting.
- 41.4 The quorum for a meeting of Investment Committee shall be formed by four (4) persons.
- 41.5 At any meeting of the Investment Committee, each member present at the meeting shall be entitled to one vote.

- 41.6 A resolution shall be arrived at by the majority decision of the members present and voting; provided that where the votes are tied, the member of the Investment Committee presiding over the meeting shall have a second casting vote.

42. Governing Law

This Deed shall be governed by, and construed in all respects in accordance with, the Laws of the Federal Republic of Nigeria.

43. Arbitration

43.1 Except as expressly provided to the contrary in this Trust Deed, any claims, differences or disputes arising out of, or in connection with, this Trust Deed shall be referred to, and determined by, a sole arbitrator, in accordance with the Arbitration and Conciliation Act, Cap A18 LFN 2004 (the "Arbitration Act"). Such arbitration shall be held in Lagos and shall be conducted in accordance with the Arbitration Rules contained in the First Schedule to the Arbitration Act.

43.2 The sole arbitrator shall be appointed by agreement of the parties to the dispute PROVIDED THAT if the parties to the dispute are unable to agree on a sole arbitrator within two (2) weeks of the notification of a declaration of dispute by the party initiating the arbitral proceedings, the sole arbitrator shall be appointed by the Director-General of the Commission or, failing him, by an order of the Court, on the application of any of the parties to the dispute.

SCHEDULE ONE
RULES FOR MEETINGS OF UNITHOLDERS

1. The Unitholders shall, in each year after the first calendar year of the inception of the Fund, hold a meeting as its Annual General Meeting which meeting shall be in addition to any other meeting in that year. The Fund Manager shall in the notice convening such meeting specify that the meeting is an Annual General Meeting and that the ordinary business of the meeting shall include the presentation of the audited accounts of the Fund, the report(s) of the Fund Manager, the appointment and fixing of the remuneration of the Auditors and, where applicable, the declaration of a Distribution. Any other business transacted at the Annual General Meeting shall be deemed special business.
2. An Extraordinary General Meeting of the Unitholders may be convened:
 - 2.1 by the Fund Manager, with the consent of the Trustee;
 - 2.2 at the request of the Trustee; or
 - 2.3 by a requisition of Unitholders holding at least twenty five percent (25%) in nominal value of the Units; or
 - 2.4 by the Court, on the application of a Unitholder, where the Court is satisfied that it is just and equitable to do so.
3. **Notice of Meetings**
 - 3.1 The notice required for all Meetings shall, from the commencement of this Trust Deed, be twenty-one (21) days from the date on which the notice was sent out, exclusive of the date of service and the date of the Meeting.
 - 3.2 A Meeting shall, notwithstanding that it is called by a shorter notice than that specified in sub-paragraph 3.1, be deemed to have been duly called if it is so agreed, in writing, by Unitholders representing not less than ninety-five percent (95%) in nominal value of the Units.
4. **Contents of Notice**
 - 4.1 The notice of a Meeting shall specify the place, date and time of the Meeting and the general nature of the business to be transacted thereat in sufficient detail to enable those to whom it is given decide whether to attend or not to attend the Meeting; and where the Meeting is to consider a Special Resolution the notice shall set out the terms of the proposed Special Resolution.

- 4.2 No business may be transacted at any Meeting unless notice of it has been duly given.
- 4.3 In every case in which a Unitholder is entitled to appoint a proxy to attend and vote instead of him the notice shall contain, with reasonable prominence, a statement that the Unitholder has the right to appoint a proxy to attend on his behalf and that the proxy need not be a Unitholder.
- 4.4 An error or omission in a notice with respect to the place, date time or general nature of the business of a Meeting shall not invalidate the Meeting unless persons responsible for the error or omission acted in bad faith or failed to exercise due care and diligence; provided that in such a case the person(s) responsible shall effect the necessary correction either before or during the Meeting.

5. **Persons Entitled to Notice**

Only the following persons shall be entitled to receive notice of a Meeting:

- (i) Every Unitholder;
- (ii) Every person upon whom the ownership of a Unit devolves by reason of his being a legal representative, receiver, trustee-in-bankruptcy or a trustee-in-lunacy of a Unitholder;
- (iii) The Trustee or the Fund Manager (if the meeting is called by the Trustee);
- (iv) The Auditors (in the case of an Annual General Meeting or any Meeting at which the accounts of the Fund are to be considered); and
- (v) The Commission

PROVIDED THAT none of the persons mentioned in clauses (iii) to (v) above shall be entitled to vote at any Meeting at which they are in attendance except any of them is voting in its capacity as a Unitholder.

6. **Service of Notice**

- 6.1 Notice may be served by the Fund Manager on any Unitholder either personally or by post, fax, telex, courier or electronic mail at the address appearing in the Register or the Unitholder's application form. If he has no registered address within Nigeria, the notice shall be sent to the address (if any) supplied by the Unitholder to the Fund Manager for the receipt of mails and notices.

6.2 Where a notice is sent by fax, telex or electronic mail it shall be deemed effective on the date shown in the fax, telex or electronic mail; and where it is sent by post or courier, it shall be deemed effective within seven (7) days of the date shown on the letter.

6.3 Notice may be served by the Fund Manager on the persons entitled to Unit(s) in consequence of the death, bankruptcy or lunacy of a Unitholder by sending such notice to the person who has become so entitled in his name or by the title of representative of the deceased's estate or trustee in bankruptcy or lunatic or to any address within Nigeria supplied for the purpose by the person claiming to be so entitled or (until such an address has been so supplied) by giving the notice in any manner in which same would have been given to the Unitholder if the death, bankruptcy or lunacy had not occurred.

7. Failure to Give Notice

7.1 Failure to give notice of any Meeting to a person entitled to it shall not invalidate the Meeting where such failure is an accidental omission on the part of the person giving the notice.

7.2 Failure to give notice to a person entitled due to a misrepresentation or misinterpretation of the provisions of the Trust Deed shall not amount to an accidental omission for the purposes of sub-paragraph 7.1.

8. Power of Court to Order Meetings

8.1 If, for any reason, it is impracticable to call a Meeting in any manner in which Meetings may be called, or to conduct Meetings in the manner prescribed by the Trust Deed, the Court may on the application of any Unitholder who would be entitled to vote at the Meeting order that the Meeting be held in such manner as the Court deems fit and where any such order is made, the Court may grant such ancillary or consequential orders as it deems expedient.

8.2 The Unitholder's application may include a prayer for a direction that one Unitholder present in person or by proxy in the Meeting may apply to the Court for an order to take a decision which shall bind all the Unitholders.

8.3 Any Meeting called, held and conducted in accordance with an order issued under sub-paragraph 8.1 shall, for all purposes, be deemed to be a Meeting duly called, held and conducted.

9. Procedure of Voting

- 9.1 At any Meeting, a resolution put to the vote shall be decided on a show of hands unless a poll is (upon the declaration of the result of the show of hands) demanded by any of the following:
 - 9.1.1 The Chairman of the Meeting (the "Chairman"); or
 - 9.1.2 Unitholders holding at least twenty-five percent (25%) of the total number of Units in issue, present in person or by proxy.
- 9.2 Unless a poll is demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried unanimously or by a particular majority, or defeated and an entry to that effect in the book containing the minutes of the proceedings of that Meeting shall be conclusive evidence of that fact.
- 9.3 In the case of joint Unitholders, the vote of the senior Unitholder who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the vote of other joint Unitholder(s), and for this purpose seniority shall be determined by the order in which the names appear in the Register.

10. Voting on a Poll

- 10.1 Each Unit entitles the Unitholder to one vote on a poll taken at a Meeting in respect of each of those Units held by him. A Unitholder entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
- 10.2 A poll, if demanded and taken, shall be deemed to be the resolution of the Meeting at which the poll was demanded.
- 10.3 In the event of an equality of votes, whether on a show of hands or on a poll, the Chairman shall be entitled to a second or casting vote.
- 10.4 A poll demanded on the election of a Chairman or on a question of adjournment of the Meeting shall be taken forthwith; while a poll demanded on any other question shall be taken at such time as the Chairman may direct. Any business other than that upon which a poll has been demanded may be addressed and concluded before the poll is taken.

11. Rights of Attendance at Meetings

- 11.1 Every Unitholder or his legal representative is entitled to attend a Meeting and to speak and vote on any resolution to be considered at the Meeting.

11.2 Every person who is entitled to receive notice of a Meeting shall be entitled to attend such a Meeting.

12. Proxies

12.1 Any Unitholder entitled to attend and vote at a Meeting shall be entitled to appoint another person as his proxy (whether a Unitholder or not) to attend and vote instead of him and a proxy so appointed to attend and vote instead of a Unitholder shall also have the same right as the Unitholder to speak at the Meeting.

12.2 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed or the transfer of the Unit in respect of which the proxy is given; PROVIDED THAT no intimation in writing of such death, insanity, revocation or transfer has been received by the Fund Manager before the commencement of the Meeting or adjourned Meeting at which the proxy is used.

12.3 The instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney duly authorized in writing or if the appointer is a corporation either under seal or under the hand of an officer or attorney duly authorized.

12.4 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 the power or authority shall be deposited at the registered office address or head office of the Fund Manager, or at such other place within Nigeria as is specified for that purpose in the notice convening the Meeting, not less than forty-eight (48) hours before the time which the person named in the instrument proposes to vote or in the case of a poll not less than twenty-four (24) hours before the time appointed for the taking of the poll. Any instrument of proxy in default of the foregoing shall not be treated as valid.

12.5 An instrument of proxy shall be in such form as may be approved by the Trustee.

13. Corporate Representation

Any corporation which is a Unitholder may, in writing under the hand of a duly authorized officer, authorize such person as it thinks fit to act as its representative at any Meeting and the person so authorized shall be entitled to exercise the same power on behalf of the corporation which he represents as that corporation would have exercised if it were an individual Unitholder.

14. Quorum

- 14.1 No business shall be transacted at any Meeting unless a quorum of Unitholders was present at the commencement and throughout the Meeting.
- 14.2 The quorum for a Meeting shall be formed by Unitholders holding 30% of Units in issue, whether present in person or by proxy.

15. Adjournment and Other Matters Relating to Meetings and Proceedings

- 15.1 The Chairman may, with the consent of a majority of Unitholders in a Meeting at which a quorum is present (and shall if so directed by the majority of Unitholders), adjourn the Meeting from time to time and from place to place; provided that no business shall be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment took place.
- 15.2 When a Meeting is adjourned for thirty (30) days or more, notice of the adjourned Meeting shall be given as in the case of an original Meeting; but otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned Meeting.
- 15.3 If within one (1) hour from the time appointed for the Meeting a quorum is not present the Meeting, if convened upon the requisition of Unitholders, shall be dissolved, but in any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Chairman may direct.
- 15.4 If a Meeting stands adjourned under sub-paragraph 15.3 above, any five or more Unitholders present at the place and time to which it so stands adjourned shall form a quorum and their decision shall bind all Unitholders.

16. Powers and Duties of the Chairman of the General Meeting

- 16.1 The Trustee, or any person so authorized by it, shall preside as Chairman at every Meeting. If the Trustee or its nominee is not present within one (1) hour after the time appointed for commencement of the Meeting or is unwilling to act, the Unitholders shall appoint one of their number as Chairman.
- 16.2 The duties and powers of the Chairman shall include to:
 - 16.2.1. preserve order at the Meeting and take such measures as are reasonably necessary to do so;

- 16.2.2. ensure that the proceedings of the Meeting are conducted in a regular manner;
- 16.2.3. ensure that the true intention of the Meeting is carried out in resolving any issue that arises before it;
- 16.2.4. ensure that all questions that arise are promptly decided; and
- 16.2.5. act in the bona fide interest of the Fund.

17. Resolutions Binding

A resolution passed at a Meeting of the Unitholders duly convened and held in accordance with these presents shall be binding upon all the Unitholders whether present or not present at such Meetings and each Unitholder shall be bound to give effect thereto accordingly.

18. Minutes of Proceedings and Effect

- 18.1 The Fund Manager shall cause minutes of all proceedings of Meetings to be entered in the books kept for that purpose.
- 18.2 Any such minutes purportedly signed by the Chairman of the Meeting at which the proceedings were held or by the Chairman of the next succeeding Meeting shall be prima facie evidence of the proceedings.
- 18.3 Where minutes have been made of the proceedings at any Meeting in accordance with the provisions of this paragraph then, until the contrary is proved, the Meeting shall be deemed to have been duly held and convened and all proceedings had at the Meeting to have been duly had.

19. Inspection of Minutes Books and Copies

- 19.1 The books containing the minutes of proceedings of any Meeting held shall be kept at the registered office address of the Fund Manager and shall during business hours be open to inspection by Unitholders without charge.
- 19.2 A Unitholder shall be entitled to be furnished, within seven (7) days after receipt of his request in that behalf to the Fund Manager, with a copy of any such minutes duly certified at a charge to be fixed by the Fund Manager.

SCHEDULE TWO

FORM OF CERTIFICATE

Certificate No.

No. of Units

SIM CAPITAL ALLIANCE VALUE FUND

(Registered and Authorised by the Securities and Exchange Commission)

Issued pursuant to Clause of the Memorandum of Association of the Fund Manager and a Resolution of the Fund Manager's Board of Directors dated the ____ day of _____ 200_

THIS IS TO CERTIFY THAT is/are the Registered Unitholder(s) of the above number of Units of ₦1.00 each in the SIM CAPITAL ALLIANCE VALUE FUND subject to and with the benefit of the terms and conditions of the Trust Deed dated the Day of 200_ (and any Deed Supplemental thereto), made between SIM CAPITAL ALLIANCE LIMITED (as Fund Manager) of the one part, and LEADWAY CAPITAL AND TRUSTS LIMITED (as Trustee for the Unitholders) of the other part; and is issued subject to and with the benefit of the provisions and conditions contained in the said Trust Deed.

GIVEN under the Common Seals of SIM Capital Alliance Limited and Leadway Capital And Trusts Limited this ____ day of _____ 20__.

The Common Seal of the Fund Manager was hereunto affixed in the presence of:

Director: _____

Secretary: _____

The Common Seal of the Trustee was hereunto affixed in the presence of:

Director: _____

Secretary: _____

NOTE

This Certificate must be surrendered before the transfer of the whole or any part of the Units comprised herein can be registered. All correspondence regarding this holding should, except otherwise stated, be addressed to the Registrar at _____.

SCHEDULE THREE

The Register

1. The Registrar shall keep the Register, in all respects, in accordance with the provisions of the Trust Deed.
2. The Registrar shall maintain and conduct the Register in such form and in such manner as the Trustee may from time to time direct and shall only permit alteration of the form or content of the Register with the consent, in writing, of the Trustee which consent the Trustee shall be entitled to give or withhold at its discretion.
3. The Registrar shall promptly comply with all requirements which may be notified to it from time to time by the Trustee as to the form and content of the Register.
4. The Registrar shall, at all times and at the request of the Trustee, supply to the Trustee all such information and explanations in relation to the Register and the contents thereof as the Trustee may require.
5. The Registrar shall permit the Trustee, or any person representing it, to have access at all times to the Register and to all subsidiary records and all documents, orders, transfers, cancelled certificates or other papers relating to the contents of the Register.
6. The Trustee, its authorized officials or any person representing it shall be entitled to visit the Registrar's premises, at any time, with or without previous notice, to inspect any documents the Trustee may wish to have inspected and to carry out such checks as may seem to the Trustee to be desirable.
7. At the option of the Trustee, the Registrar shall either take out or maintain, in full force and effect and at its own expense, an insurance policy in favour of the Trustee. Such policy shall be with an insurance company and in a form approved by the Trustee and to provide the same with cover against all loss or damage suffered by the Trustee arising from any misconduct, mistake, oversight, error, want of prudence, fraud or negligence of the Registrar and of its employees; or alternatively to keep the Trustee fully indemnified in such form and subject to such guarantees as the Trustee may require in respect of such misconduct, mistake, oversight, error, want of prudence, fraud or negligence of the Registrar and of its employees.
8. The Registrar shall close the Register on the day that is ten (10) Business Days preceding the Annual General Meeting of the Unitholders.

IN WITNESS WHEREOF this Trust Deed has been executed the day and year first above written in the manner hereinafter appearing.

THE COMMON SEAL of the within-named **SIM CAPITAL ALLIANCE LIMITED** was hereunto affixed in the presence of:



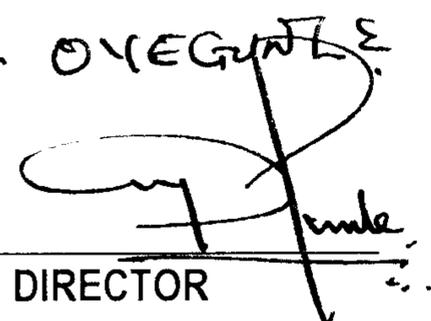
DIRECTOR

ALSEC NOMINEES LIMITED

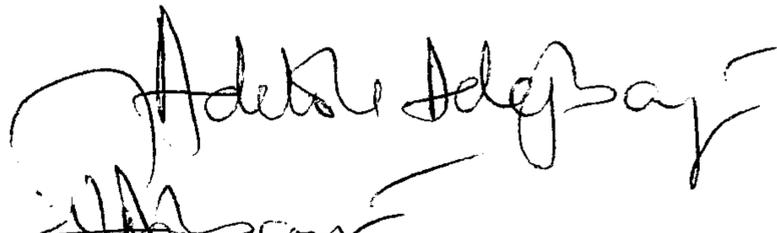

Company Secretaries

DIRECTOR / SECRETARY

THE COMMON SEAL of the within-named **LEADWAY CAPITAL & TRUSTS LIMITED** was hereunto affixed in the presence of:

M. O. OYEGBILE


DIRECTOR



DIRECTOR / SECRETARY