

TERMS AND CONDITIONS - CAPITAL MANAGEMENT ACCOUNT

1. SCOTIA INVESTMENTS JAMAICA LIMITED ("SCOTIA INVESTMENTS") shall establish an investment account in the name(s) of the party(ies) more particularly described on the face of the Investment Contract Note ("the Investor"), and the sums placed by the Investor with SCOTIA INVESTMENTS for investment shall be credited to that account and invested in accordance herewith. The Investor may from time to time add to the balance of the said investment account by making additional sums available to SCOTIA INVESTMENTS for investment. The minimum balance which is permitted in the said investment account at any time is J\$60,000.00 or (if the said investment account is denominated in US dollars) US\$1,000.00 or (if the said investment is denominated in pounds sterling) £1,000.00 or (if the said investment account is denominated in euros) €1,000.00 or (if the said investment account is denominated in Canadian dollars) CAD\$1,000.00, and SCOTIA INVESTMENTS may from time to time vary the permitted minimum balance. The Investor agrees, until the said investment account is closed, to maintain a balance in the said investment account at all times greater than the permitted minimum balance prevailing from time to time. SCOTIA INVESTMENTS may in its discretion encash and close the said investment account in the event that the balance therein falls below the permitted minimum balance prevailing from time to time.
2. It is agreed that the sums so invested may be commingled with other moneys belonging to other investors and to SCOTIA INVESTMENTS itself, and that investments made therewith will be funded collectively from such funds. SCOTIA INVESTMENTS is not operating a unit trust scheme or mutual fund, and the Investor shall have a direct traceable interest in the investments derived from the sums credited to the Investor's investment account and in the Investor's agreed share of the proceeds thereof. SCOTIA INVESTMENTS is authorised by the Investor to deal with the investments funded in whole or in part by the Investor's moneys. SCOTIA INVESTMENTS shall maintain good and proper accounts of the moneys paid into the said investment account, the investments made therewith, and the income and gains made thereon. SCOTIA INVESTMENTS determination of the balance in the said investment account from time to time shall be final and conclusive thereof and shall be binding on the Investor and the Investor's successors-in-title.
3. SCOTIA INVESTMENTS may invest the balances in the Investor's said investment account in debt obligations issued by third parties or the purchase of participatory rights therein, or in "sale and repurchase" or similar transactions therein, or in any other investment which SCOTIA INVESTMENTS may deem appropriate, and SCOTIA INVESTMENTS may vary such investments from time to time. SCOTIA INVESTMENTS is hereby empowered and authorized by the Investor to deal with such investments as SCOTIA INVESTMENTS thinks fit. SCOTIA INVESTMENTS shall from time to time deliver to the Investor a written confirmation (hereinafter referred to as "the Confirmation") showing the balance of the Investor's said investment account as at the date thereof, and such other information concerning the Investor's said investment account as SCOTIA INVESTMENTS from time to time determines.
4. The Investor's investment shall be for an initial period of not less than thirty (30) days for investments denominated in Jamaican or US dollars and ninety (90) days for investments denominated in pounds sterling, euros and Canadian dollars, and SCOTIA INVESTMENTS may from time to time vary the said minimum initial periods. If the Investor wishes to encash all or any part of the balance in the said investment account within whichever of these minimum periods is applicable to the said account, and if SCOTIA INVESTMENTS in its discretion is willing to facilitate such encashment, an early encashment fee of 0.75% (plus GCT thereon) of the amount being encashed may be charged by SCOTIA INVESTMENTS. SCOTIA INVESTMENTS may deduct such fee and GCT from the remaining balance in the said investment account (or, if such balance is insufficient, from the proceeds of the encashment). SCOTIA INVESTMENTS may from time to time by notice to the Investor vary the amount of the encashment fee prevailing from time to time.
5. SCOTIA INVESTMENTS shall at quarterly intervals (or at such other intervals as may from time to time be required by applicable Law) issue and deliver to the Investor, Statements of the Investor's said investment account. Such Statements shall be in such form and have such content as SCOTIA INVESTMENTS may from time to time determine, provided that such Statements shall comply with applicable regulatory requirements from time to time.
6. This is not a contract for services and, subject only to the encashment fees and the fees mentioned in clause 9 below, in connection with this investment agreement SCOTIA INVESTMENTS shall not be entitled to any fee, commission or payment for services rendered to the Investor, and similarly the Investor shall not be entitled to any fee, commission or payment for services rendered to SCOTIA INVESTMENTS.
7. The parties hereby agree to the following apportionment of all income and gains made on the investments funded in whole or in part by the Investor's moneys:
 - (a) the interest and other gains on such investments during each investment period shall be the property of and be for the account of the Investor, up to and not exceeding the rate of return determined and fixed by SCOTIA INVESTMENTS on the first day of each investment period (or on such other date(s) as SCOTIA INVESTMENTS may from time to time determine and notify the Investor), which rate shall take into account the current money market conditions and shall prevail for the duration of that investment period; and
 - (b) to the extent that the interest and other gains on such investments accruing during an investment period comprise a rate of return in excess of the rate of return determined and fixed for such investment period by SCOTIA INVESTMENTS as aforesaid, the interest and other gains comprising such excess shall be the property of and be for the account of SCOTIA INVESTMENTS.The interest and gains referred to in (b) above may be treated by SCOTIA INVESTMENTS as referable to its share of the funding of the said investments. Each investment period shall be one (1) calendar month unless and until SCOTIA INVESTMENTS otherwise determines and notifies the Investor.
8. The Investor shall notify SCOTIA INVESTMENTS in writing at least 48 hours beforehand if the Investor wishes to encash and be paid all or part of the balance in the said investment account. Encashments of all or part of the balance in the said investment account are in each case subject to SCOTIA INVESTMENTS being available to sell (for cash) investments from the said investment account sufficient to fund such encashment. SCOTIA INVESTMENTS may charge an encashment fee of 0.125% (plus GCT thereon) of the amount of the encashment, and may deduct such fee and GCT from the remaining balance in the said investment account (or, if such balance is insufficient, from the proceeds of the encashment). SCOTIA INVESTMENTS may from time to time by notice to the Investor vary the amount of the encashment fee prevailing from time to time.
9. SCOTIA INVESTMENTS may also charge fees, which may be subject to GCT, for other services provided to the Investor such as hypothecations of the Investor's investment account to secure facilities made available to the Investor or to third parties at the Investor's request, the provision of statements of account other than regular Statements, audit confirmations, wire transfer facilities, manager's cheques and drafts, and the like. Such fees and GCT may be deducted from the Investor's investment account.
10. The money invested by the Investor in the said investment account is not a deposit and shall not constitute a deposit liability of SCOTIA INVESTMENTS to the Investor, and the relationship of SCOTIA INVESTMENTS and the Investor is not one of debtor and creditor. SCOTIA INVESTMENTS does not guarantee the repayment obligations of any third parties in relation to the investments made with the Investor's moneys, nor does SCOTIA INVESTMENTS in any instance warrant or guarantee the credit worthiness or solvency of any third party, and the Investor shall have no legal recourse to SCOTIA INVESTMENTS in respect of any losses sustained by the Investor resulting from the transactional risks, market risks (including liquidity risks) and/or credit risks constituted by any particular investment or third party obligor, all of which risks are assumed and borne by the Investor.
11. In the operation of the said investment account, SCOTIA INVESTMENTS will endeavour to achieve an appropriate balance between the abovementioned risks assumed by the Investor and the objective of earning market rates of return for the benefit of the Investor. SCOTIA INVESTMENTS choice of investments and the related management thereof shall be deemed to satisfy all legal and fiduciary obligations owed by SCOTIA INVESTMENTS to the Investor, and shall not be the basis of any claim or suit against SCOTIA INVESTMENTS whatsoever.
12. SCOTIA INVESTMENTS may hold in its name any securities and other contracts or instruments funded in whole or in part with the Investor's moneys, or may engage the services of a third party custodian to hold such securities and instruments.
13. The Investor hereby agrees that SCOTIA INVESTMENTS may invest any part of the balances in the said investment account on deposit or otherwise with any affiliate of SCOTIA INVESTMENTS, provided that the rate of return paid on such deposit is not materially less than the rates available in the money market in Jamaica for investments in that currency.
14. SCOTIA INVESTMENTS makes no representation or warranty in relation to the tax liability (including GCT and withholding tax) of the Investor with respect to the investments made and the income and gains made thereon. In the event that SCOTIA INVESTMENTS is, or reasonably perceives itself to be, liable to charge or deduct tax from any sum held for the account of the Investor hereunder, SCOTIA INVESTMENTS may charge or deduct same and the amount so charged or deducted shall be in reduction of the sums held for the account of the Investor hereunder.
15. SCOTIA INVESTMENTS may from time to time, if it determines that amendment to the terms of this Agreement are required or expedient for regulatory, administrative, legal or tax reasons, vary the terms of this Agreement by notice in writing to the Investor.
16. If the Investor comprises more than one person, then unless SCOTIA INVESTMENTS receives notice in writing to the contrary signed by all of them, (i) the placed sum, the investments into which same may be traced and the Investor's share of the interest and gains made thereon shall be deemed to be held for them by SCOTIA INVESTMENTS in a joint account, with a right of survivorship applying on the death of any of such persons, and (ii) SCOTIA INVESTMENTS is authorised to act on and give full effect to instructions given by any one of such persons.
17. The Investment Contract Note, and each transaction referred to herein and/or contemplated hereby, and the contractual relationship between the Investor and SCOTIA INVESTMENTS, are and shall continue to be subject to and governed by SCOTIA INVESTMENTS General Investment Terms and Conditions prevailing from time to time, which General Investment Terms and Conditions are hereby incorporated by reference into the Investment Contract Note and each such transaction. The client may obtain from SCOTIA INVESTMENTS offices at 7 Holborn Road, Kingston 10, at no cost to the client, one copy of SCOTIA INVESTMENTS General Investment Terms and Conditions currently prevailing.
18. SCOTIA INVESTMENTS makes no express or implied recommendation to the client with respect to the securities or class of securities referred to in the Contract Note. SCOTIA INVESTMENTS may have a proprietary interest in the said securities.