



Retirement Benefits Authority

Safeguarding your retirement benefits

SAMPLE DEED OF APPOINTMENT REMOVAL AND DISCHARGE

RELEASE DATE: 7TH JULY 2021

IMPORTANT TO NOTE

This template has been prepared in an attempt to standardize the review and approval process, and thereby shorten the approval period. During the development of this template, the Authority was cognizant of the need to ensure that the template would be sufficiently flexible to permit individual circumstances to be taken into consideration by retirement benefits schemes that choose to apply the template.

It should be understood that the application or implementation of the template is intended to be voluntary; the template is not meant to be prescriptive or viewed as a recommended replacement for obtaining professional advice and / or input. The template is intended to be a tool to provide the general structure within which individual deeds can be developed by schemes that choose to do so. Needless to say, the components of the template that may be most applicable to one scheme might be quite different for another scheme.

Therefore, schemes are not expected to strictly apply all of the components of the template, nor is it assumed that the template is exhaustive. By using the template as a starting point, schemes are encouraged to determine which aspects are appropriate to their specific situations, and modify, add to or subtract from the template, while retaining the overall consistency of the template.

The Authority reserves the right to review and approve the documents submitted and may direct Trustees to make such further amendments as may be required to ensure compliance with the Retirement Benefits Act, Regulations and guidelines made there under.

DATED THISDAY OF 20.....

(INSERT NAME OF THE FOUNDER/SPONSOR

(the "Founder/Sponsor") use defined term in the tdr

-AND-

**TRUSTEE A
TRUSTEE B**

(the "New Trustees")

AND

**TRUSTEE C
TRUSTEE D
(the "continuing trustees")**

(DELETE THIS PART IF THERE ARE NO CONTINUING TRUSTEES)

AND

**TRUSTEE E
TRUSTEE F**

(the "Retiring/Resigning Trustees")

(CHOOSE ONE OR CITE BOTH AS MAYBE APPLICABLE)

DEED OF APPOINTMENT, REMOVAL AND DISCHARGE

INSERT NAME OF THE SCHEME- (FORMERLY KNOWN AS)

THIS DEED OF APPOINTMENT, REMOVAL AND DISCHARGE (select as appropriate, where there is no one to be removed or discharged, delete the term) made on this day of20.....

BETWEEN

1. **INSERT NAME OF FOUNDER/SPONSOR** a limited liability company **(give correct description)** situate at **(INSERT PHYSICAL ADDRESS)** of Post Office Box Number **0000-0000 (TOWN)** (hereinafter referred to as “the **Founder**” which expression shall where the context so admits include its successors in title and assigns); of the first part;

AND

2. **TRUSTEE A and TRUSTEE B**, (hereinafter referred to as the “**new trustees**” which expression shall where the context so admits include its successors of them or other trustees for the time being hereof) all care of Post Office Box Number **0000-0000 (TOWN)**; of the second part;

AND

3. **TRUSTEE C and TRUSTEE D** (hereinafter referred to as the “**continuing Trustees**” which expression shall where the context so admits include its successors of them or other trustees for the time being hereof) all care of Post Office Box Number **0000-0000 (TOWN)**; of the third part; **(delete this part if not applicable and amend no.4 appropriately)**

AND

4. **TRUSTEE E and TRUSTEE F**, (hereinafter referred to as the “**retiring or resigning Trustees**” **(as the case maybe)** which expression shall where the context so admits include its successors of them or other trustees for the time being hereof) all care of Post Office Box Number **0000-0000 (TOWN)**; of the fourth part

WHEREAS: (SELECT THE APPLICABLE CLAUSES AND AMEND WHERE APPROPRIATE)

- A) By the Original Trust Deed and Rules of the scheme (hereinafter called “the Original Deed”) dated **(INSERT DATE)** the founder established **(INSERT NAME OF SCHEME)** (hereinafter referred to as “the scheme or fund”) **(as the case maybe)** for the purpose of providing retirement and other benefits to members upon their retirement at specified age and other benefits to dependants of deceased members.
- B) Pursuant to the powers in the Original Deed, the trustees with the consent of the founder have amended the **Original Trust Deed** from time to time by execution of deeds of amendment dated **(INSERT DATE)** (hereinafter referred to as the **1st Deed of Amendment**), deed of amendment dated **(INSERT DATE)** (hereinafter referred to as the **2nd Deed of Amendment**), deed of amendment dated **(INSERT DATE)** hereinafter referred to as the **3rd Deed of Amendment**) **(recite up to the most recent deed of amendment of the scheme)**
- C) The continuing trustees are the present trustees to the Scheme.
- D) Clauses..... & of the trust deed and rules (hereinafter referred to “trust deed”) dated **(INSERT DATE OF THE MOST RECENT TDR)** provide for the power of appointing trustees as vested on the Founder and the Members respectively;
- E) Clauses & of the trust deed and rules dated **(INSERT DATE OF THE MOST RECENT TDR)** provides for the grounds for cessation/removal of Trustees as vested on the Founder and the Members respectively;
- F) In accordance with Clause of the said Trust Deed, the Founder wishes to appoint **TRUSTEE A** effective **(INSERT DATE)**; and **TRUSTEE XXXX** effective **(INSERT DATE)**, **(LIST ALL THE TRUSTEES APPOINTED)** as sponsor/founder **(use the defined term in the tdr)** nominated trustees on the respective effective dates;
- G) In accordance with Clause of the said Trust Deed, the members have elected **(or re-elected)** **TRUSTEES XXXX** effective **(INSERT DATE)**; and **TRUSTEE XXXX** effective **(INSERT DATE)**; **(LIST ALL THE**

TRUSTEES ELECTED) as member nominated trustees on the respective effective dates;

- H) **TRUSTEE E resigned/retired (CHOOSE THE APPLICABLE OPTION)** on **(INSERT DATE)** as founder /member nominated trustee of the Scheme; and **TRUSTEE F resigned/retired (CHOOSE THE APPLICABLE OPTION)** on **(INSERT DATE)** as founder /member nominated trustee of the Scheme;

NOW THIS DEED WITNESSES as follows: -

- (1) In exercise of the power for the purpose vested in the founder and the members in the Trust Deed and of every other power enabling it, the founder hereby confirms the appointment of the **TRUSTEE A and TRUSTEE B (LIST ALL THE TRUSTEES)** on the respective appointment dates as the new trustees of the trust established by the trust deed in place of the **retiring/resigning trustees (select the appropriate option)**.
- (2) Each of the new trustees hereby confirms his or her acceptance to act as a trustee of the trusts of the Trust Deed from the effective dates respectively.
- (3) All property of the Scheme being policies of assurance, any cash or investments forming part of the assets of the Scheme shall henceforth be jointly held by and vested in the new and the continuing trustees upon trusts and subject to the powers and provisions applicable by virtue of the Trust Deed.
- (4) That **TRUSTEE E and TRUSTEE F (LIST ALL THE TRUSTEES RESIGNING OR RETIRING)** are hereby discharged and released from the trusts of the Trust Deed and all future obligations arising in respect to **(INSERT NAME OF SCHEME)** from the respective effective resignation or retirement dates as stated herein or from the date hereof. **(select the appropriate phrase)**.

IN WITNESS WHEREOF the founder and the **new and continuing trustees (select as appropriate)** have hereunto set their respective hands and affixed their signatures on the day and year first hereinabove written.

SIGNED AND SEALED (sealing is optional depending on the organisation)

(INSERT NAME OF FOUNDER/SPONSOR)

and delivered in the presence of:)

Director)

Secretary)

SIGNED AND DELIVERED
by the said **TRUSTEE A**)

In the presence of:)

SIGNED AND DELIVERED
by the said **TRUSTEE B**)

In the presence of:)

SIGNED AND DELIVERED)
by the said **TRUSTEE XXXXX**)

.....

In the presence of:)
)
)
)

For any queries of clarifications please contact ngichana@rba.go.ke.

RBA SAMPLE