

FHS  
COUNTERPART

FIRST SUPPLEMENTAL TRUST DEED TO THE AIICO BALANCED FUND AMENDED AND  
RESTATED TRUST DEED

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Between

AIICO CAPITAL LIMITED

RC No. 335978

And

UNITED CAPITAL TRUSTEES LIMITED

RC No. 645220

IN RESPECT OF THE AIICO BALANCED FUND

Dated the 11<sup>th</sup> Day of December 2020

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

THIS **FIRST SUPPLEMENTAL TRUST DEED** dated the 7<sup>th</sup> day of DECEMBER 2020 is made

BETWEEN:

**AIICO CAPITAL LIMITED** a Private Limited Liability Company duly incorporated under the laws of the Federal Republic of Nigeria with RC No. 335978 and registered with the Securities & Exchange Commission as a Fund/Portfolio Manager, with its principal place of business situated at Plot PC 12 Churchgate Street, Victoria Island, Lagos. (hereinafter referred to as "**the Fund Manager**") which expression shall, where the context so admits, include its successors-in-title and assigns) of the one part;

AND

**UNITED CAPITAL TRUSTEES LIMITED**, a Private Limited Liability Company duly incorporated under the laws of the Federal Republic of Nigeria with RC No. 645220 and registered with the Securities & Exchange Commission as a Trustee, with its principal place of business at Afriland Towers, 3<sup>rd</sup> & 4<sup>th</sup> Floors, 97/105 Broad Street, Lagos (hereinafter referred to as "**the Trustee**") which expression shall, where the context so admits, include its successors – in – title and assigns) of the other part

**WHEREAS:**

- (A) The AIICO Balanced Fund, (formerly known as the MBA Mutual Trust Scheme) was established by a Trust Deed dated the 24<sup>th</sup> of June 1991 and subsequently modified by a Supplemental Trust Deed dated the 21<sup>st</sup> of July 2008, and further modified by an Amended and Restated Trust Deed dated 14<sup>th</sup> of May 2018
- (B) By virtue of the Amended and Restated Trust Deed dated 14<sup>th</sup> of May 2018 (hereinafter referred to as the "**Principal Trust Deed**") between AIICO Capital Limited and United Capital Trustees Limited, as the Trustee, the AIICO Balanced Fund (the "**Fund**") was constituted as an open-ended balanced unit trust scheme duly registered by the Securities and Exchange Commission (the "**Commission**") in accordance with the provisions of the Investment & Securities Act 2007.
- (C) Pursuant to the new Rules of the Commission (the "**New SEC Rules**") and the Amendment to the Rules and Regulations of the Commission which was signed on the 23<sup>rd</sup> of December 2019, it becomes necessary to amend the Principal Trust Deed in line with the new SEC Rules.
- (D) By virtue of Clause 49 of the Principal Trust Deed and the Commission's approval dated 14<sup>th</sup> of May 2018, the Fund Manager is desirous of amending certain provisions of the Principal Trust Deed to bring it into compliance with the New SEC Rules and the Amendment to the Rules and Regulations of the Commission.

**NOW THIS FIRST SUPPLEMENTAL TRUST DEED WITNESSES** as follows:

**1. DEFINITIONS AND INTERPRETATIONS**

1.1 **Definitions:** For the purposes of this Trust Deed, unless otherwise amended, modified, defined or construed herein or unless the context otherwise requires, terms defined in the Principal Trust Deed which are used in this First Supplemental Trust Deed shall have the same meaning in this Trust Deed as provided in Clause 1 (Definitions) of the Principal Trust Deed.

Particularly, in this Trust Deed, the following expressions shall have the meanings indicated.

<b>“Benchmark”</b> weighted	means composite returns derived from the actual  Asset Allocation Return of the Nigerian Stock Exchange (the <b>“NSE”</b> ) ALL Share Index (for equities), 91-day Treasury bill (for treasury bill) and 5-year Treasury Bond (for treasury bonds) which shall be measured by exposure to those asset classes on the Valuation Date or such other benchmark as may be prescribed on a quarterly basis by the Fund Managers’ Association of Nigeria;
<b>“Effective Date”</b>	means the date on which the last Party  executes this First Supplemental Trust Deed;
<b>“Party/Parties”</b>	means the Fund Manager and the Trustee, individually or jointly as may be applicable;
<b>“The Commission”</b>	means the Securities and Exchange Commission
<b>“Trust Deed”</b>	means this First Supplemental Trust Deed;
<b>“Principal Trust Deed”</b>	means The AIICO Balanced Fund Amended and Restated Trust Deed dated [●] 2017
<b>“Principal Transaction”</b>	A transaction which, singularly or in aggregate of over a 12month period equals five per cent (5%) or more of the Fund’s Net Asset Value (“NAV”), in which the Fund Manager acting on behalf of the Fund enters with an affiliate of a Related Party as defined in this Trust Deed.
<b>“Related Party Transactions”</b>	Transactions between the affiliates of Related Parties and the Fund Manager acting on behalf

of the Fund.

**“Related Party/Related Party to the Fund”**

A Related Party, having regards to the Fund shall be the Trustee, Fund Manager and Custodian of the Fund.

**“Affiliate of a Related Party”**

An affiliate of a Related Party having regards to the Fund shall be any person natural or corporate falling within the categories of the parties listed below:

- a) Companies that share personnel of the Fund Manager who hold administrative, management and Board position in the Company, in addition to front office staff engaged in investment management function of the Fund;
- b) Companies that share personnel of the Trustee Company who hold administrative, management and Board position in the Company;
- c) Companies that share personnel of the Custodian Bank or Central Depository who hold administrative and management position in the Bank or Depository;
- d) Companies that are affiliates of the Fund Manager, Trustees or Custodians within the same financial group or another group;
- e) Key persons undertaking asset management, investment analysis and other key front office tasks that impact or are likely to impact the Fund;
- f) Persons capable of exerting influence on management and Board decisions of Related Parties and their affiliates;
- g) Other Collective Investment Schemes managed by:
  - i. the Fund Manager

- ii. an affiliate of the Fund Manager and/or companies belonging to the same group as the Fund Manager;
  - iii. an affiliate of the Trustee and/or companies belonging to the same group as the Trustee;
  - iv. a Company whether as affiliate, subsidiary or parent of the Fund Manager, Trustee or Custodian whose securities are unlisted or listed on a recognized Securities Exchange;
- h) Sponsor, administrator or managers of electronic/digital platforms which serve as channel for subscription to or redemption from, units of the Fund;
  - i) Companies which share interlocking directorship with the Fund Manager, Trustee or Custodian.
  - j) Companies that engage in principal transactions with the Fund Manager, Trustee or Custodian;
  - k) Companies/Entities with at least five per cent (5%) shareholding or beneficial ownership in the Fund Manager, Trustee or Custodian;
  - l) Any other person(s) identified by the Fund Manager, Trustee, Custodian or the Commission as an affiliate of a Related Party.

**1.2 Interpretation:** In this Trust Deed, unless the context otherwise requires:

Any reference to a provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment;

- (a) References in this Trust Deed to “this Deed” shall with effect from the Effective Date and unless the context otherwise requires, mean references to the Principal Trust Deed and this First Supplemental Trust Deed which shall all be jointly read as one (1) document;

- (b) The headings and sub-headings are for ease of reference only and shall not affect the construction of this Trust Deed.

## 2. **AMENDMENTS TO THE PRINCIPAL TRUST DEED**

Pursuant to the new SEC rules of 23 December 2019, the Parties hereby agree to amend the Principal Trust Deed in the manner set out below.

### 2.1 Clause 6-OBJECTIVES OF THE SCHEME

The existing Clause 6(a) of the Principal Trust Deed is hereby substituted with a new clause 6(a) as follows:

“The investment objective of the Fund is income generation and/or capital growth”.

### 2.2. Clause 9 of the Principal Trust Deed is hereby amended as follows:

#### 2.2.1 Clause 9 - INVESTMENT POLICY OF DEPOSITED PROPERTY is hereby amended and renumbered as follows:

(a) Clause 9 – Investment Policy

(b) Clause 9.1 – Investment Policy of Deposited Property

(c) The existing Clause 9 (c) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 9 (c) as follows:

“With the exception of treasury bills, money market instruments issued by any single issuer shall not constitute more than twenty per cent (20%) of the Fund’s NAV. Likewise, Equity Securities issued by a single company shall not exceed five per cent (5%) of the Fund’s NAV”.

(d) The existing Clause 9(g) (ii) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 9 (g) (ii) as follows:

The asset allocation range of the Fund shall be a minimum of 40% and a maximum of 60% to equities and a minimum of 40% and a maximum of 60% to fixed income and money market instruments provided that the Fund shall maintain a minimum of 20% to fixed income securities at all times”.

The Fund Manager shall make investments in accordance with the Asset Allocation Range indicated hereunder:

Proposed Asset class	Mid target weighing (%)	Asset Allocation range
Fixed Income and Money Market	50	+/-10%
Quoted Equities	50	+/-10%

2.2.2. Clause 9 (c) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 9 (c)

9 (c) With the exception of treasury bills, money market instruments issued by any single issuer shall not constitute more than 20% of a fund's NAV. Likewise, Equity securities issued by a single company shall not exceed 5% of the Fund's NAV or in the case of a company with a market capitalization of N50 billion or more, 10% of the Fund's NAV.

Clause 9.2 as shown below is hereby added to Clause 9 of the Principal Trust Deed.

**“CLAUSE 9.2 – INVESTMENT RESTRICTIONS**

- 9.2.1 With the exemption of Federal Government Bonds, Bonds issued by any single issuer or one group of companies, shall not constitute more than 30% of the Fund's NAV.
- 9.2.2 Units/shares of any collective investment scheme shall not constitute more than 20% of the Fund's NAV. With the exception of Treasury Bills, Money Market instruments issued by any single issuer shall not constitute more than 20% of the fund's NAV.
- 9.2.3 Fixed Deposits with any single institution shall not constitute more than 20% of a Fund's NAV;
- 9.2.4 No equity investment of a scheme shall represent more than 10% of the outstanding securities of an issuer;
- 9.2.5 The Fund Manager shall only invest in unlisted securities of a public company that is traded on a registered Over-The-Counter (OTC) Market.
- 9.2.6 The Fund Manager shall not invest the assets of the Fund in securities or assets of Related Parties to the Fund and its affiliates except otherwise permitted by the Commission.
- 9.2.7 Notwithstanding the provisions of Clause 9.2.6, the Fund Manager may invest the assets of the Fund in the money market instruments of a Related Party's affiliates provided that:
  - i. Money market instruments issued by such affiliate shall not be below investment grade rating of A- and at rates and conditions better than that prevailing in the market;
  - ii. The prior consent/approval of the Trustee for compliance with pre-conditions for such investment has been obtained;

iii Such investment shall not exceed 2% of 10% allowable exposure to liquid assets;

iv. It shall not be more than (5%) of total value of money market allocation;

v. The Trustee shall ensure and report to the Commission compliance with the limit set in (iii) and (iv) above.”

9.2.9 Where the investment limit is exceeded as a result of a corporate action or through an appreciation or depreciation of the Fund’s NAV, the Fund Manager shall not make any further acquisition with respect to any security with which the relevant limit is breached, and the Manager shall within a period of not more than three (3) months from the date of the breach take all necessary steps and actions to rectify the breach.

2.3 Clause 10- INVESTMENT COMMITTEE AND RIGHT TO SELECT INVESTMENTS

The existing Clause 10(a) of the Principal Trust Deed is hereby substituted with a new clause 10(a) as follows:

“There shall be an Investment Committee responsible for advising the Fund Manager on the investments to be made by the Fund. The Investment Committee shall meet quarterly”.

2.4 The existing Clause 32(a) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 32(a) as follows:

“The Fund Manager shall be entitled to receive out of the Net Income generated during the year to which the payment relates for its own account and until termination of the Fund, an annual Management Fee of 1.50% per annum of the Fund’s NAV. The Management Fee shall be accrued daily and paid quarterly in arrears provided that:

(i) It may however be reviewed with the approval of the Commission and the Unitholders at a meeting;



Provided that the total expenses of the fund (including the annual management fee) but excluding incentive fee shall not exceed 3.5% of the net asset value of the Fund per annum.

- 2.5. The existing Clause 32(b) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 32(b) as follows:

“The Fund Manager shall be entitled to receive an Incentive Fee which shall be (20%) of excess income above defined benchmark. The performance of the Fund shall be benchmarked to the NSE ALL Share Index (for equities), 91-day Treasury bill (for treasury bill) and 5-year Treasury Bond (for treasury bonds) or any other benchmark as may be prescribed by the Association of Fund Managers on a quarterly basis. This should be disclosed by the Fund Manager on its website as the relevant benchmark for the Fund”

- 2.6 Clause 32(c) of the Principal Trust Deed is hereby deleted and replaced with a new Clause 32(c) as follows:

“The Incentive Fee shall be payable in arrears provided that:

(i)the Fund’s stated benchmark shall be reflective of the nature of the Fund and its underlying instruments;

(ii)the Fund shall be actively managed;

(iii)where the Fund underperforms its benchmark, the management fee charged shall decrease by the same percentage by which the Fund underperformed;

(iv)the Fund’s performance must have reached a high-water mark. A high-water mark is reached when the Fund’s value (per unit basis) exceeds its highest historical record.

- 2.7 The total expenses of the Fund (including the annual Management Fee but excluding incentive fee) shall not exceed 3.5% of the NAV of the Fund per annum”.

- 2.8 The following new Clauses are hereby inserted after the existing Clause 47 (PAYMENTS) in the Principal Trust Deed:

**2.8.1 Clause 48 – REQUIREMENT ON THE FUND MANAGER-**

The Board of the Fund Manager shall:

- a. Approve and institute guidelines, policies and procedures for managing conflict of interest on Related Party Transactions for the Fund and all asset management operation;
- b. Identify and manage real and potential conflicts of interest in its overall asset management operations including its management of the Fund in line with the policies and procedures established in (a);
- c. Strictly enforce policies on conflict of interest management and guidelines on related party transactions undertaken for and on behalf of the Fund;
- d. Report/disclose to the Commission (in its quarterly returns), and Trustee of all Related Party transactions, service contracts/agreements; fees, commissions, transaction costs arising from transactions or service provision with related parties of the Fund Manager and showing comparable best market price and cost to support that the transaction and service were carried out at terms and prevailing conditions in the best interest of the Fund;
- e. Maintain a record of all transactions and service executions undertaken with the affiliate of a Related Party on behalf of the Fund.

#### **2.8.2 Clause 49 - CONFLICT OF INTEREST/RELATED PARTY TRANSACTION**

The following provisions shall guide the management of conflict of interest/related party transactions between the Fund Manager and affiliates of Related Parties on behalf of the Fund:

1. Every Conflict of Interest issues shall be addressed on a case by case basis
2. The investment committee of the Fund Manager shall critically review all proposed investments in the affiliates of a Related Party, following which decisions shall be reached on the proposed investments, having considered all matters of conflict of interest arising on the transaction(s). The decision of the committee shall reflect in the minutes of the meeting and a special resolution document/memo.

3. The Fund shall only invest in instruments of Related Parties and their affiliates where such instruments are of investment grade 'A' with returns and conditions better than that prevailing in the market. The Trustee must consent to such investments.
4. The Fund Manager shall disclose to the Trustee and Commission not later than 24 hours, whenever a conflict arises or where it is reasonable to assume that a potential conflict may exist.
5. All services or transactions undertaken by the Fund Manager on behalf of the Fund with the affiliate of a Related Party shall be done at arm's length and at terms based on cost, price, and prevailing market conditions in the interest of the Fund.
6. Any service contract between the Fund Manager on behalf of the Fund and an affiliate of a Related Party with potential conflict of interest for the Fund shall be disclosed to the Commission.
7. The Fund Manager shall comply with all regulatory limits on transactions with affiliates of a Related Party.
8. After obtaining the Trustee's consent on a transaction for the purchase of securities on behalf of the Fund by the Fund Manager, which has an affiliate of the Fund Manager acting as Issuing house / Under Writer to the offer, the Fund Manager shall also disclose to the commission the details of the transaction.
9. The Fund manager shall render disclosures to the Commission on purchase of securities in (8) above, where the Fund Manager and Trustee have:
  - (i) shown the transaction to be in the best interest of the Fund and unit holders
  - (ii) shown the transaction to be carried out at arm's length

- (iii) made full disclosure to the Commission on transaction cost and terms with the affiliate of a Related Party.

10. The Fund Manager shall be required to obtain the Trustees consent in respect of:

- i. Principal transactions on behalf of the Fund by the Fund Manager with its affiliate as counter party or vendor to ensure that cost, terms and conditions of the transaction are carried out at better terms and price than prevailing market condition;
- ii. Principal transactions for sales or purchase of securities in the secondary market where the affiliate of a Related Party acts as broker or intermediary for such sale or purchase showing the price or cost at which the transaction was made as compared to the highest and lowest price for the similar transaction in the market for that day”

2.8.3 Following the inclusion of the new Clauses 48 and 49 above that:

- (i) The existing Clauses 48 (Miscellaneous) be renumbered as Clause 50 and re-headed as ‘COPIES OF TRUST DEED TO BE MADE AVAILABLE’
- (ii) That the existing Clauses 49 – 59 be renumbered as Clauses 51 – 61 as follows:

Clause 51 – MODIFICATION OF THE TRUST DEED

Clause 52 – REVOCATION AND LIQUIDATION OF THE TRUST

Clause 53 – DISTRIBUTION ON REVOCATION OF TRUST

Clause 54 – DURATION AND TERMINATION OF THE FUND

Clause 55 – PROCEDURE AFTER TERMINATION OF THE TRUST

Clause 56 – COUNTERPARTS

Clause 57 – DISPUTE RESOLUTION

Clause 58 – GOVERNING LAW

Clause 59 – COMPLIANCE

Clause 60 – CONFIDENTIALITY

Clause 61 – MISCELLANEOUS

2.8.4 That the existing Clause 59(h) be deleted

**3. Continuation of Principal and Supplemental Trust Deeds**

Save as amended by this First Supplemental Trust Deed, the covenants, provisions, terms, and powers contained and subsisting under the Principal Trust Deed shall together with this First Supplemental Trust Deed, be henceforth read and construed as one document.

**4. Certification**

The Trustee hereby certifies in its opinion, that the modifications, alterations, amendments and additions made to the Principal Trust Deed pursuant to this First Supplemental Trust Deed of the Amended and Restated Trust Deed do not prejudice the interest of Unitholders; do not operate to release the Trustee or the Fund Manager from any responsibility to the Unitholders or any of them; and they do not impose upon Unitholders or any of them, any obligation to make further payment in respect of their units nor accept any liability in respect thereof.

**5. Governing Law**

This Trust Deed and all matters arising from or connected with it shall be governed by the laws of the Federal Republic of Nigeria.

**IN WITNESS WHEREOF** the Parties hereto have caused their respective Common Seals to be hereunto affixed the day and year first above written.

**THE COMMON SEAL** of the within named

**AIICO CAPITAL LIMITED** was hereunto affixed in the presence of:



Name: **AYODELE BAMIDELE**  
**DIRECTOR**

5th Feb, 2021  
**Date**

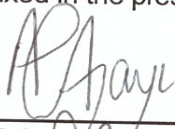


**DONALD KANU**  
**SECRETARY**

5th February, 2021  
**Date**

THE COMMON SEAL of the within named  
**UNITED CAPITAL TRUSTEES LIMITED**

was hereunto affixed in the presence of:



Name: **TOKUNBO AJAYI**  
**DIRECTOR**



**LEO OKAFOR**  
**SECRETARY**

12<sup>th</sup> Feb. 2021

Date

12/2/2021

Date

