

EXCHANGE AGREEMENT

BETWEEN:-

VENDOR: THE CORPORATION OF HAMILTON

- AND -

PURCHASER: HSBC BANK BERMUDA LIMITED

RE: Areas of land situate at Front Street and Point Pleasant Road,
City of Hamilton

EXCHANGE AGREEMENT

1. THE PARTICULARS

**The Bermuda Bar Association General Conditions of Sale January 2003
are incorporated in this Agreement save where modified in accordance with
the Special Conditions below.**

The Agreement Date:		The day of 2018
The Vendor:	Name:	The Corporation of Hamilton
	Address:	City Hall, 17 Church Street, Hamilton HM11
	Telephone/Fax:	
	Nationality	A Corporation established in Bermuda under the Municipalities Act 1923
The Purchaser:	Name:	HSBC Bank Bermuda Limited
	Address:	6 Front Street, Hamilton, HM11
	Telephone/Fax	
	Nationality	A local company incorporated in Bermuda pursuant to the Bank of Bermuda Act 1890 (as amended)(the “Act”)
The Vendor’s Property:	Tenure:	Freehold
	Description:	An area of land situate in the city of Hamilton in the Islands of Bermuda as described in the First Schedule annexed colored Brown on Plan 1 with an approximate area of 0.018 Ha TOGETHER WITH the appurtenances thereto (if any) which said lot of land is to be the subject of an application for subdivision approval for boundary adjustment (per Special Condition 4.6 (a) below).
	Grid Reference:	E, N
	V.A.N. & A.R.V.:	N/A
The Purchaser’s Property:	Tenure:	Freehold
	Description:	An area of land situate in the City of Hamilton in the Islands of Bermuda as described in the Second Schedule annexed and colored Pink on Plan 1 with an area of approximately 0.018 Ha TOGETHER WITH the appurtenances thereto (if any) which said lot of land is to be the subject of an application for subdivision approval for boundary adjustment (per Special Condition 4.6 (a) below).
	Grid Reference:	E, N
	V.A.N. & A.R.V.:	N/A
The Completion Date:		See Special Condition 4.6(c)
The Vendor’s Attorneys:		Appleby (Bermuda) Limited
The Purchaser’s Attorneys:		BeesMont Law Limited
Location of Title Deeds for Vendor’s Property:		Not Applicable ¹
Location of Title Deeds for Purchaser’s Property:		The Purchaser’s Attorneys

¹The Vendor acquired the Vendor’s Property by Conveyance dated 16 January 1934 between The Bank of Bermuda Limited and the Corporation of Hamilton.

2. **DEFINITIONS AND INTERPRETATION**

In this Agreement, unless the context otherwise requires, the terms appearing in the Particulars shall have the meanings specified therein, and:

- 2.1 'Interest Rate' means seven per centum (7%) per annum;
- 2.2 'Completion Money' means the Balance as adjusted by all other sums payable by the Vendor and the Purchaser to each other pursuant to the provisions of this Agreement;
- 2.3 'Planning Act' means the Development and Planning Act 1974;
- 2.4 'Actual Completion Date' means the date of actual completion whenever it occurs;
- 2.5 'Working Day' means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or any other Public Holiday;
- 2.6 'Lease' includes sub-lease, tenancy and agreement for a lease or sub-lease;
- 2.7 'Notice to Complete' means a notice requiring completion of this Agreement in accordance with General Condition 14;
- 2.8 'Plan 1' means the plan annexed hereto numbered LS6698D/1 and 'Plan 2' means the plan annexed hereto numbered LS6698D/2 (Plan 1 and Plan 2 together referred to as the 'Plans');
- 2.9 'General Conditions' means the Bermuda Bar Association General Conditions of Sale January 2003 which shall apply to this Agreement;
- 2.10 expressions 'the Vendor' and 'the Purchaser' include their respective successors in title and permitted assigns;
- 2.11 The Interpretation Act 1951 shall apply unless specifically varied herein;
- 2.12 where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several liabilities of those persons;
- 2.13 unless expressly stated to the contrary, any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that statute and any regulation or order made under that statute, and any general reference to a statute includes any regulation or order made under that statute;
- 2.14 the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation save for the headings 'The Particulars' and 'The Special Conditions';
- 2.15 any reference to a clause or a condition or a paragraph or a schedule is to one in this Agreement so numbered; and
- 2.16 any sum referred to in this Agreement in United States Dollars (US\$) is the equivalent of the same sum in Bermuda Dollars (BD\$) at the official exchange rate.

3. **AGREEMENT FOR EXCHANGE**

In accordance with the terms of this Agreement:

The Vendor hereby agrees to convey the Vendor's Property to the Purchaser in exchange for a conveyance of the Purchaser's Property and the Purchaser agrees to take a conveyance of the Vendor's Property.

The Purchaser hereby agrees to convey the Purchaser's Property to the Vendor in exchange for a conveyance of the Vendor's Property in accordance with the terms of this Agreement and the Vendor agrees to take a conveyance of the Purchaser's Property.

4. **THE SPECIAL CONDITIONS**

4.1 **Conflict**

Where there is a conflict between these Special Conditions and the General Conditions of this Agreement, the Special Conditions prevail with such amendments, adjustments and modifications as shall be necessary

or required to give effect to this Agreement and the transaction contemplated herein.

4.2 **Encumbrances**

The Vendor's Property and the Purchaser's Property respectively are conveyed subject to all easements, covenants, conditions, restrictions and stipulations contained or referred to in the descriptions respectively annexed in the First Schedule and the Second Schedule.

The Purchaser's Property will not have any rights or easements or the benefit of any other matters over land retained by the Purchaser and section 7 of the Conveyancing Act 1983 is qualified so as not to include any liberties, privileges, easements, rights or advantages over land retained by the Purchaser.

4.3 **Capacity of Vendor**

The Vendor's Property is vested in the Vendor pursuant to a Conveyance dated the 16th day of January 1934 and made between the Purchaser (therein named The Bank of Bermuda Limited) of the one part and the Vendor of the other part and the Vendor will transfer title to the Vendor's Property as beneficial owner and pursuant to section 20 (1) (b) of the Municipalities Act 1923.

4.4 **Capacity of Purchaser**

The Purchaser will transfer title to the Purchaser's Property as Beneficial Owner and will transfer in such capacity.

4.5 **Possession**

The Vendor's Property and the Purchaser's Property are each respectively to be exchanged with vacant possession on completion

4.6 **Conditions Precedent**

This Agreement is subject to the following:

- (a) The Purchaser, with such reasonable assistance and co-operation of the Vendor as the Purchaser shall reasonably request in writing but at the Purchaser's cost and expense, will apply to the Department of Planning to obtain the boundary adjustment and sub-division of the Vendor's Property and the Purchaser's Property as shown on the Plans;
- (b) The Purchaser shall cause an application to be made on its behalf to the Minister of Finance for a sanction to acquire and hold the Vendor's Property pursuant to section 9 of the Act and shall use all reasonable endeavours to procure the grant of such approval;
- (c) The completion of the exchange of the Vendor's Property and the Purchaser's Property in accordance with the Plans will take place within thirty days of the Purchaser's Attorney providing a copy of (i) the registered plans of sub-division/boundary adjustment; and (ii) the sanction (whichever shall be the later) to the Vendor's Attorney.
- (d) In the event that the Purchaser is unsuccessful in fulfilling any of the above mentioned conditions or those conditions remain unfulfilled after twelve months from the date hereof, either party shall be entitled to rescind this Agreement on written notice to the other whereupon this Agreement shall terminate and neither party shall be liable to the other save for any antecedent breach.

4.7 **Legal Fees**

Notwithstanding the terms and provisions of General Conditions 16.2 and 16.3 all legal fees and Stamp Duties associated with the preparation of the deed of transfer and the Stamp Duty due on this Agreement, shall be paid by the Purchaser in full.

4.8 **Parliament Approval**

The conveyance of the Vendor's Property is subject to the Vendor acquiring the approval of the Parliament to the transfer as soon as practicable after the date of this Agreement and the Vendor shall use its best efforts to procure such approval forthwith.

4.9 **Non-disclosure of Encumbrances**

If the title to the Purchaser's Property reveals that the Purchaser's Property is sold subject to any covenant;

easement, condition, restriction or stipulation that is not specified in the property description hereto annexed, the Purchaser may without prejudice to any other right or remedy that it may have against the Vendor, by notice in writing to the Vendor, rescind this Agreement.

4.10 Notices

Any notice served on the Corporation shall have no effect unless a copy thereof is on the same day delivered to the Vendor's Attorney.

AS WITNESS the hands of the parties hereto the day and year first above written

First Schedule

ALL THAT lot of land situate in the City of Hamilton in Pembroke Parish in the Islands of Bermuda coloured brown on the plan drawn by Bermuda Land Surveys (Drawing NO LS6698D/1 dated February 2007 (amended August 2016 and November 2016) ("Plan 1")) containing Nought decimal point nought one eighth of a hectare (0.018 Ha) and bounded **NORTHERLY** by land of the Purchaser and there measuring along two (2) straight lines Fourteen decimal point five eight metres (14.58m) and Eighteen decimal point three five metres (18.35m) **EASTERLY** by the public sidewalk and public highway delineated on Plan 1 (together the "Highway") known as Point Pleasant Road belonging to the Vendor and there measuring Five decimal point five three metres (5.53m) **SOUTHERLY** by the Highway belonging to the Vendor and there measuring on two straight lines Fifteen decimal point five eight metres (15.58m) and Fifteen decimal point five four metres (15.54m) **WESTERLY** by the Highway belonging to the Vendor and there measuring Eleven decimal point eight four metres (11.84m) and again **EASTERLY** by land of the Purchaser and there measuring Six decimal point nought eight metres (6.08m) **OR HOWEVER OTHERWISE** the said lot of land may be bounded may measure or ought to be described **TOGETHER WITH** the part of the building known as 6 Front Street erected thereon and in the possession of the Purchaser and the appurtenances belonging thereto.

Second Schedule

ALL THAT lot of land situate in the City of Hamilton in Pembroke Parish in the Islands of Bermuda coloured in Pink on the plan drawn by Bermuda Land Surveys (Drawing NO. LS6698D/1 dated February 2007 (amended August 2016 and November 2016) ("Plan 1")) containing **Nought decimal point nought one eighth of a hectare (0.018 Ha)** and bounded **NORTHERLY** by the public highway delineated on Plan 1 and known as Front Street belonging to the Vendor and there measuring Forty seven decimal point two four metres (47.24m) **EASTERLY** by the public sidewalk and public highway delineated on Plan 1 and known as Point Pleasant Road belonging to the Vendor and there measuring Thirty eight decimal point one nought metres (38.10m) **SOUTHERLY** by the said public sidewalk forming part of Point Pleasant Road and belonging to the Vendor and there measuring One decimal point six one metres (1.61m) **WESTERLY** and again **SOUTHERLY** and **EASTERLY** by property of the Purchaser and there measuring on three straight lines Thirty four decimal point three three metres (34.33m) Forty four decimal point two nought metres (44.20m) and Nineteen decimal point nine nought metres (19.90m) **WESTERLY** by the said public sidewalk and public highway delineated on Plan 1 and known as Point Pleasant Road belonging to the Vendor and there measuring Twenty two decimal point two eight metres (22.28m) **OR HOWEVER OTHERWISE** the said lot of land may be bounded may measure or ought to be described **SUBJECT** for the benefit of the Purchaser's retained land and the Vendor's Property to:

1. The right (in common with all others entitled thereto) to full and free right of passage and running of services in and through the pipes wires cables and apparatus serving the Purchaser's retained land and the Vendor's Property and which are laid in upon through or under any part of the Purchaser's Property and the Vendor's retained land;
2. The right to retain the inspection covers coloured Blue on the plan drawn by Bermuda Land Surveys (Drawing NO. LS6698D/2 dated February 2007 (amended August 2016 and November 2016) ("Plan 2")) and the grounding rods / cables thereunder serving the building constructed on the Purchaser's retained land and the Vendor's Property and the exclusive right to use the same;
3. The exclusive right to full and free right of passage and running of overflow and condenser discharge, salt water and storm water in and through the pipes and associated apparatus serving the Purchaser's retained land and the Vendor's Property and which are laid under the areas coloured Yellow and blue on Plan 2; and
4. The right to enter the Purchaser's Property and the Vendor's retained land after the giving of reasonable notice and at all reasonable times (or in the case of emergency at any time without notice) so far as may be necessary for the purposes of constructing laying altering inspecting

cleaning maintaining repairing renewing and demolishing (a) the buildings walls and other boundary structures upon the Purchaser's retained land and the Vendor's Property and (b) pipes wires cables and apparatus and which are laid in upon through or under any part of the Purchaser's Property and the Vendor's retained land causing as little damage as possible and making good to the reasonable satisfaction of the Vendor any damage caused.

SIGNED by

for and on behalf of the Vendor in)
the presence of:)

Signature of Witness:)

Name of Witness:)

Address of Witness:)

SIGNED for and on behalf of the Purchaser in)
the presence of:)

Signature of Witness:)

Name of Witness:)

Address of Witness:)

Occupation of Witness:)

(Purchaser signs above)

