



**PENSION FUND**

**TOURISM SECTOR ARUBA**

**FOUNDATION**

**RULES & REGULATIONS**

**RRDC01072022**

Effective July 2022

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## Article 1. DEFINITIONS

The underlying pension plan uses the following definitions:

- a) The Fund: The “Pension Fund Tourism Sector Aruba Foundation”.
- b) Pension Plan: The pension plan as contained in these Rules & Regulations of the Fund.
- c) Employer: All employers who are registered at the Chamber of Commerce and have adopted the Pension Plan and are recognized as such by the Fund.
- d) Employee: An individual who is registered in the, “bevolkingsregister”, civil registry of Aruba (Censo) of Aruba and works for and receives a salary from an Employer.
- e) Participant: An Employee who, according to the conditions of article 2 of these Rules & Regulations is eligible to participate in the Pension Plan.
- f) Partner: The person married to a Participant or the unmarried person who runs a lasting joint household with the Participant. A lasting joint household is understood to be a household run by the Participant and one partner. Running a lasting joint household is deemed to be sufficiently substantiated if:
  - 1. a notarial’s cohabitation contract submitted to the Fund with legal validity of at least one year before the Participant has notified the Fund of his/her Partner,
  - 2. and if the Participant and his/her Partner actually live at the same address and this address is registered in the civil registry of Aruba (Censo). The address should be the same for both.
- g) Special Partner: Any Partner whose marriage/cohabitation with a Participant ends by divorce/termination of the cohabitation contract during participation of the Participant in the Pension Plan but prior to his Normal Pension Date.
- h) Children: Participant’s natural, legally acknowledged or natural legitimised children as well as adopted children, under the age of 21; an age limit of 27 applies for children who are not capable of acquiring income through work because of full time study or disability.

- i) **Premium Salary:** The sum of the 12 gross monthly salaries over each annual period from January to December, increased by any vacation allowance applicable in that period, any points applicable in that period and any fixed bonus applicable over that period and a minimum of 50% of any commission applicable over that period of time. The amount of fixed bonus is set and labelled as such by the Employer. Overtime will not be taken into account for determining the Premium Salary.
- j) **Normal Pension Date:** The first day of the month in which the Participant or Special Partner reaches the pension age as stipulated by the law.

The pension age is illustrated in the following table:

<u>Participants born between</u>	<u>pension year</u>	<u>pension age</u>
January 1st - June 30th, 1955	2015	60½ year
July 1st - December 31st, 1955	2016	61 year
January 1st - June 30th, 1956	2017	61½ year
July 1st - December 31st, 1956	2018	62 year
January 1st - June 30th, 1957	2019	62½
July 1st - December 31st, 1957	2020	63 year
January 1st - June 30th, 1958	2021	63½ year
July 1st - December 31st, 1958	2022	64 year
January 1st - June 30th, 1959	2023	64½ year
July 1st - December 31st, 1959	2024	65 year
All born in 1960 and after	2025 and after	65 year

- k) **Pension Date:** The first day of the month in which the Participant or Special Partner starts receiving his pension payments.
- l) **Pension:** The benefit received by the Participant from the Normal Pension Date forward.
- m) **Partner Pension:** The benefit received by the Partner upon death of the Participant.
- n) **Special Partner Pension:** The benefit received by the Special Partner on Normal Pension Date of the Participant or the death of the Participant before the Participant reaches his Normal Pension Date.

- o) Special Old Age Pension: The benefit received by the Special Partner on Normal Pension Date of the Participant.
- p) Orphan Pension: The benefit received by the Child/Children upon death of the Participant.
- q) Pensioner: The person who receives either, an Old Age Pension, a (Special) Partner Pension or an Orphan Pension.
- r) Deferred Vested Participant: A former Participant, not being a Pensioner, who is entitled to a Personal Pension Capital.
- s) Personal Benefit Statement: An annual individual personal overview of the actual benefits available to be received from the Fund in the month of July.
- t) Personal Pension Capital: The total value of contributions (minus the cost) plus accumulated interest available to the Participant, for the purchase of an Old Age -, (Special) Partner- and Orphan Pensions.
- u) LAP: Landsverordening Algemeen Pensioen (AB 2011 no. 85).
- v) LOP: Landsveroderning Ondernemingspensioenfondsen (AB 1998 no. GT 17).
- w) CBA: Central Bank of Aruba
- x) The Board As defined in the Articles of Association of the Fund

**Article 2. COMMENCEMENT AND TERMINATION OF PARTICIPATION**

- a) Once an Employer is a member of the Fund enrolment of new Employees in the Fund is mandatory.
- b) An Employee is eligible and obligated to participate in the Pension Plan when he<sup>1</sup>:
  - 1. is at least 18 years of age, and
  - 2. is registered in the civil registry of Aruba (Censo), and
  - 3. has a labour agreement with an Employer, and
  - 4. has passed the probation period.
- c) Participation ends:
  - 1. at the Normal Pension Date, or
  - 2. in mutual agreement with the Employer at the Pension Date, or
  - 3. when the Participant is no longer employed with an Employer, or
  - 4. in case of death of the Participant.
- d) Acceptance for participation in the Pension Plan will be acknowledged by the Fund through a letter of confirmation accompanied by a copy of these Rules & Regulations and a copy of the Articles of Association of the Fund.

**Article 3. ENTITLEMENTS**

- a) The Participant is entitled to:
  - 1. The use of his Personal Pension Capital for the purchase of pensions at the Normal Pension Date
  - 2. The use of his Personal Pension Capital for the benefits of his (Special) Partner and Orphans if he passes away before the Normal Pension Date.
- b) These entitlements can be claimed provided that the Participant meets the relevant requirements as described in the various Articles of these Rules & Regulations.
- c) On an annual basis the Fund will provide the Participant with a Personal Benefit Statement which includes, but is not limited to, a detailed overview of his:
  - 1. name, date of birth, gender, participation date;
  - 2. contributions paid for the year;
  - 3. contributions paid to date;
  - 4. accrued Personal Pension Capital to date.

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<sup>1</sup> Wherever in these Rules and Regulations general reference is made to males the reader should bear in mind that this general reference equally applies to females.

The Old Age, (Special) Partner and Orphan Pension are calculated based on:

1. the personal data of the Participant;
2. his contributions as stated in Article 4 of these Rules & Regulations;
3. his Personal Pension Capital;
4. the actuarial assumptions as adopted by the Board of the Fund.

**Article 4. CONTRIBUTIONS (NON-TAXABLE)**

- a) The total premium contribution payable to the Fund on behalf of a Participant is at least 6% of his yearly Premium Salary, taking into account the following:
  1. A minimum of 3% of the Premium Salary is payable by the Employer.
  2. The remainder of the premium is payable by the Participant.
  3. Participant and/or Employer may pay an optional supplementary contribution of minimally 1%, maximally 19% of the Premium Salary as stipulated in article 9 paragraph 6 of the Landsverordening Inkomstenbelasting(AB 1991 no. GT 51) .

The projected old age pension at Normal Pension Date should not surpass 100% of last earned salary (including AOV). In the event the Participant wishes to purchase his prior years of employment with a past employer, the Fund may allow purchase by means of an extra premium contribution, however, with due observance of the maximum annual growth in pension rights of 2%.

In the event of substantial shortage of Pension Accrual during the last five years, the Participant must submit a formal request to the Board of the Fund for extra contribution.

- b) The defined contribution percentage payable by the Participant as defined by Article 4, sub a.1 will be withheld by the Employer from the Participants' Premium Salary each month. The monthly contributions are increased by the Employer with the Employers' part of contribution as defined by Article 4, sub a.2. The total contribution is paid monthly to the Fund by the Employer.
- c) The monthly contribution as defined by Article 4, sub b is used to:
  1. cover the monthly administrative expenses of the Fund;
  2. the remaining portion of the monthly contribution is used to accrue Pension Capital for the Participant.
- d) Any supplementary contribution for the following year according to Article 4, sub a.3, is valid for the whole year and cannot be changed during the year.
- e) Once the Employer has transferred the required contributions to the Fund, he shall be relieved from all pension obligations in relation to the Participant and his co-insured dependant(s).

**Article 5. PENSION DATE**

The Pension Date is set at the Normal Pension Date. The participant has the right to retire earlier, however not earlier than at the age of 60. The Participant has also the right to postpone the Pension Date on a yearly basis to the age of 70 at the latest. The Accrued Capital will be respected.

**Article 6. PERSONAL PENSION CAPITAL**

- a) The Personal Pension Capital is accrued with the remaining part of the contributions as defined in Article 4, sub c and is increased with interest as decided by the Board of the Fund. The interest to be granted depends, among others, on the performance of the Fund's investments.
- b) At the Normal Pension Date the Participant is entitled to purchase Retirement Pension with his accrued Personal Pension Capital.
- c) If at the Normal Pension Date the Participant has a Partner he is entitled to purchase Partner Pension to the height of 70% of the Old Age Pension with his accrued Personal Pension Capital, taking into account Article 9, sub a. The Participant may opt to purchase no Partner's Pension if he can provide the Fund with a written permission to do so, signed by the Partner.
- d) In case the Participant passes away before the Pension Date the accrued Personal Pension Capital to such date will be used to purchase Partner Pension, Orphans Pension and Pension for the Special Partner, if applicable.
- e) The height of the pensions depends on the height of the accrued Personal Pension Capital to date and the valid actuarial rates at the moment of purchase of the pensions.
- f) The purchase of any pension must be in compliance with the applicable laws. In the exceptional case that the Personal Pension Capital would enable the Participant to purchase pensions higher than what is deemed acceptable by the applicable laws, then the surplus of the Personal Pension Capital will be paid out in a lump sum payment.
- g) In case more than one Employer has employed the Participant the Personal Pension Capital equals the sum of the accrued Personal Pension Capitals vested during the various employment periods.

**Article 7. RETIREMENT PENSION (OLD AGE PENSION)**

- a) The Participant will use his Personal Pension Capital to purchase Old Age Pension at the Normal Pension Date.
- b) The Old Age Pension is payable monthly in arrears starting from the Pension Date.
- c) The Old Age Pension will cease at the end of the month in which the Pensioner passes away.



**Article 8. PARTNER PENSION**

- a) The Partner Pension will be purchased at Normal Pension Date or in case of death, before Pension Date at that earlier date with the accrued Personal Pension Capital to such date.
- b) The Partner Pension is payable monthly in arrears starting from the month following the month in which the Participant passed away.
- c) The Partner Pension will be paid until the end of the month in which the Partner passed away.
- d) If a Participant gets a new Partner before the Pension Date, then the Personal Pension Capital available for the purchase of a Partner Pension according to Article 8 for any new Partner will be reduced by the Personal Pension Capital reserved for the Special Partner according to Article 9 resulting from this Pension Plan on Participants' behalf.

**Article 9. PENSION FOR THE SPECIAL PARTNER**

- a) At the moment that a Partner becomes a Special Partner, 50% of the Personal Pension Capital, that has been accrued over the continuous period in which the Employee was a Participant and the respective Special Partner was a Partner, will be reserved for the Special Partner Pension.
- b) In case the Special Partner passes away before the Pension Date of the Participant, the Personal Pension Capital which was reserved for the purchase of Special Partner Pension according to Article 9, sub a will flow back to the Personal Pension Capital of the Participant.
- c) In case the Participant passes away before his Pension Date, the part of the accrued Personal Pension Capital - as mentioned in Article 9, sub a - will be used to purchase a Special Partner Pension.
- d) In case the Participant reaches his Pension Date, the part of the accrued Personal Pension Capital - as mentioned in Article 9, sub a - will be used to purchase a Special Partner Old Age Pension.
- e) The Special Partner Old Age Pension is payable monthly in arrears starting from the Pension Date of the Participant.
- f) The Special Partner Pension is payable monthly in arrears starting from the month following the month in which the Participant passes away.
- g) In case accrued Personal Pension Capital will be reimbursed due to emigration of the Deferred Vested Participant - according to Article 11, sub b – the part of the accrued personal Pension Capital – as mentioned in Article 9, sub a – will be used to purchase Special Partner Old Age Pension from the Normal Pension Date of the Special Partner and is payable monthly in arrears
- h) Each Special Partner Pension will be paid until the end of the month in which the respective Special Partner passes away.

- i) A Participant and his Special Partner are allowed to agree differently on what has been stipulated in this article by means of a notarial act, or the Court of Justice if the verdict of divorce decides differently, based on a mutual request of the parties involved. If this is the case, the Fund should be provided with proof of the alternative agreement or a court verdict which reflects that the judge ruled based on the alternative agreement as soon as possible.

**Article 10. ORPHAN PENSION**

- a) The Orphan Pension equals 20% of the total (Special) Partner Pension.
- b) The Orphan Pension is payable monthly in arrears starting with the month following the month in which the Participant passes away.
- c) The Orphan Pension will be paid until the earliest of one of the following conditions:
  - 1. the end of the month in which the Orphan passes away, or
  - 2. the end of the month in which the Orphan reaches the age of 21, or the age of 27 if the Orphan is studying or is disabled according to Article 1 sub h.
- d) The orphan must prove, on a yearly basis, to the Fund that he is studying or disabled. If the orphan cannot sufficiently prove, in the opinion of the Board of the Fund, that he is (still) studying or disabled then, loss of entitlement to an Orphan Pension shall be imposed.
- e) In case there is no (Special) Partner to claim (Special) Partner Pension the accrued Personal Pension Capital will be completely used to purchase an Orphan Pension.

**Article 11. TERMINATION OF PARTICIPATION**

- a) Participation in more than one Pension Plan of the Fund continuously will be equal to a continuous participation in one Pension Plan during that time frame. Participants who are members of the old pension scheme are as of January 1, 2004, members of the current pension scheme. Therefore, total years of participation will be calculated based on the entrance date to the Fund (continuous participation).
- b) If a Participant ends his membership after becoming Deferred Vested Participant due to emigration, then the former Participant will be reimbursed for the accrued pension capital to date. An administration fee of maximum Afl. 250.00 will be deducted from the accrued pension capital which the remaining balance will be reimbursed.  
The former Participant will be reimbursed only when he applies for reimbursement after three (3) years of emigration. The Fund has six (6) weeks after this application to process the Participant's request.
- c) If the participation ends after becoming a Participant as a result of ending Employment of the Participant or if the Employer fails to pay the pension premiums due over a longer period of three (3) months, then the Participant becomes a Deferred Vested Participant.

- d) A Deferred Vested Participant according to Article 11, sub c. is entitled to:
  - 1. The use of his accrued Personal Pension Capital for the purchase of pensions at the Normal Pension Date;
  - 2. The use of his accrued and reserved Personal Pension Capital for the purchase of pensions for the benefit of his (Special) Partner and Orphans if he passes away before the Normal Pension Date.
- e) After becoming a Deferred Vested Participant, the Fund will inform the Deferred Vested Participant through a Personal Benefit Statement about the accrued Personal Pension Capital according to Article 3, sub c.
- f) A Deferred Vested Participant is entitled to transfer the actuarial net reserve of his accrued Personal Pension Capital, as long as accrued Personal Pension Capital does not surpass ten (10) years in the Fund, to another pension fund or insurance company provided that those funding vehicles are recognized as such by Aruban law. The transfer of the actuarial net reserve should be direct to the other funding vehicle, without any intermediary parties involved. In connection herewith an administration fee of Afl. 250.00 will be charged.
- g) In case the Participant passes away, before reaching retirement age without leaving any Children and/or (Special) Partner as beneficiaries, 70% of the accrued capital during the period of participation may be paid out by the Fund to other beneficiary (ies) assigned by the former Participant.
- h) In case Employer revokes its membership to the Fund, the extra administration expenses related to such resignation and consequently, administration of the transfer of the rights and obligations or the payment of accrued pension benefits of each Participant of the Fund, is set forth in the “LAP” at Afl. 250.00 per Participant.

**Article 12. PAYMENT OF BENEFITS**

- a) All benefits are to be paid in Aruban Florins.
- b) Any pension in payment being less than Afl. 50.00 per month, as set forth in the “LAP”, will be redeemed by the Fund through a lump sum payment to the Pensioner equal to the actuarial net reserve of the respective pension. Or the Pensioner may opt to collect this amount on a semi-annual or annual basis. The amount is to be paid post numerando. (after the elapsed period).
- c) Any Pensioner has to provide the Fund annually a so called “attestata de vita” (evidence of being alive) prior to January 15<sup>th</sup> of each year so that his benefits can be processed promptly.
- d) The relevant taxes and other social retentions apply to all payable benefits.

**Article 13. INCOMING TRANSFER VALUE**

- a) Any Participant can be granted extra benefits related to past service years through an incoming transfer value. The transfer value originates from either another pension fund or insurance company, provided that those funding vehicles are recognized as such by Aruban law, or from the Participant. In this case past service years have to be with an Employer and must be prior to the date of participation, but not before age 18 according to article 2, sub b.
- b) The extra benefit consists of an extra Personal Pension Capital.

**Article 14. REDUCTION OF ACCRUED RIGHTS AND BENEFITS**

Pursuant to article 5 of the Articles of Association of the Fund, the Board reserves the right, in the event the Fund bears the pension risk, to reduce the accumulated pension rights of the Participants by bringing the Fund's Pension Provision -and consequently each Participants' Pension Capital- in proportion to the available assets that have been earmarked by the Board to cover the Fund's existing and future pension obligations, in the event the financial condition of the Fund shows that:

1. a meaningful portion of the invested assets that -qualify according to the guidelines established by the Centrale Bank van Aruba and- serve to safeguard the pension capital of the Participants and Pensioners have reduced to such an extent in value that their recovery is perceived as unlikely in the foreseeable future and therefore, have to be written off and replaced by other qualified investment instruments at significant costs;
2. Or the contributions plus investment income cannot adequately cover the existing pension administration expenses, the accrual of pension benefits and payout of these benefits.

**Article 15. DUTIES OF PARTICIPANTS AND EMPLOYERS**

- a) The Employer is responsible for the enrolment of new Employees in the Fund according to article 2, sub b.
- b) The Employer is responsible for the correctness of the data that he delivers to the Fund.
- c) The Participant is obligated to inform the Employer as soon as possible of any changes (e.g. marriage, commencing or terminating a lasting joint household as referred to in Article 1, divorce, birth, death, change of domicile, change in disability) that influence any entitlement or claim to the Fund;
- d) The Participant is obligated to check his Personal Benefit Statement (as described in Article 3, sub c.) and inform the Fund immediately of any discrepancies if any;
- e) The Fund does not take any responsibility for the possible incorrect information of the personal data of the Participant.

**Article 16. TAX CLAUSE**

As long as the Tax Authorities have not approved this Pension Plan, the Pensions from this Plan shall be deemed to have been replaced by Pensions acceptable for tax purposes.

**Article 17. CHANGING THE RULES & REGULATIONS**

The Board of the Fund may change this Pension Plan, if new Social and Pension Laws are introduced or the existing Social and Pension laws are changed, or if circumstances originate for which it is in the Employers and/or Participants best interest to make changes to the Pension Plan. In this case, the Rules & Regulations will be adapted after the amendments have been submitted to and approved by the Employers and the representatives of the Participants. The Participants and all relevant parties will be informed about the approved changes. Changes to the Rules & Regulations may only have effect on future accrual and projections.

In as far as these Rules and Regulations would deviate from the Aruban Law, and more in particular the State Ordinances, "LOP", and the, "LAP", the guidelines of CBA and what the PFTSA Articles of Association, prescribes, the aforementioned laws, guidelines and Articles of Association prevail over these Rules and Regulations.

**Article 18. APPOINTMENT OF THE MEMBERS OF THE SUPERVISORY BOARD**

The Fund and its capital are managed by the Board, whose constituency consists of an odd number of members determined by the Board, including the Chairman, with a minimal of three and maximum seven individuals, whereby an equal number of Board members are appointed by the Employers and Participants. The Chairman is independent compared to the other the Board members.

**Article 19. DISPUTES**

In cases these Rules & Regulations do not provide a definite answer, the Board of the Fund will decide, to the best of its knowledge, along the lines of these Rules & Regulations.

**Article 20. TRANSFER OF PARTICIPATION**

After the implementation of Rules and Regulations RRDC01072021, all the Participants in former Rules and Regulations will be enrolled as Participants in these Rules and Regulations. Active participation in previous Rules and Regulations is no longer possible. Rules and Regulations RRDC01072021 replaces all previous Rules and Regulations for the Defined Contribution Scheme.

**Article 21. TRANSITIONAL PROVISION**

For the accrued rights up to implementation of Rules and Regulations RRDC01072021, the following conditions apply:

- a. The accrued rights in the previous Defined Contribution Scheme will be respected.
- b. The accrued rights in the Defined Benefit Scheme will be respected
- c. The accrued rights in the Defined Benefit Scheme cannot be paid out to the beneficiary (ies) referred to in article 11, sub g in these Rules and Regulations.

**Article 22. LIQUIDATION OF THE FUND**

In case the Board has decided to liquidate the Fund, after having consulted with the Employers and having informed the Participants and the Centrale Bank van Aruba of its decision, the surplus after liquidation of the Fund will be proportionally allocated to increase the pension capital of the Participants and Pensioners of the Fund. In the event of a deficit, such deficit will be applied proportionally to reduce the pension capital of the Participant and Pensioners. The Board will decide how the final remaining balance will be disposed of.

**Article 23. FINAL PROVISION**

If and as soon as these Rules & Regulations have to be amended, the Participants will be informed in writing by the Board of the Fund. However, changes of Rules and Regulations cannot come into effect if these are not in accordance with the Articles of the Association of the Fund.