

11 Trustee remuneration

- 11.1 Any Trustee engaged in a profession or business (including any officer or employee of a corporate trustee) shall be entitled to be paid all properly incurred expenses, charges, remuneration and commissions for work carried out in connection with the Scheme by him or any firm or company including work which a Trustee not being in any profession or business could have done personally.
- 11.2 Without prejudice to the generality of clause 11.1, if the Independent Trustee, or any professional adviser with which it is connected, is consulted by the Member Trustees with regard to investment advice, the party providing such advice may charge a reasonable fee for such advice and may retain any reasonable commissions received as a result of any resulting investment made by the Trustees.
- 11.3 Any Trustee not engaged in a profession or business may be paid such expenses and remuneration as may be agreed unanimously by the Trustees.
- 11.4 All sums due pursuant to this clause shall be expenses of the Scheme for the purpose of clause 15, to be paid in priority to all other claims on the Fund.
- 11.5 To the extent that any payments pursuant to clause 11 are to be made by the Fund, the following provisions shall apply:
- (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.

12 Trustees benefiting from the Scheme

- 12.1 The decision of, or the exercise of a power or discretion by, the Trustees shall not be invalidated or questioned on the ground that any of the Trustees or directors of a corporate Trustee had an interest in the result of the decision or the exercise of the power or discretion.
- 12.2 Subject to the consent of the Principal Employer and of the Trustees and to clause 12.5, a Trustee who is or becomes a partner, director, officer or employee of any company, business or partnership in which the Trustees hold shares or any other interest or which, or any part of which, forms part of the Fund, may retain for himself any resulting fees or remuneration notwithstanding that his retention of, or appointment to, that office or employment may be directly or indirectly due to the exercise or non-exercise of any votes by the Trustees.
- 12.3 Subject to clause 12.5 any Trustee, employee, director or other officer of the Trustees, any member of any committee appointed by the directors of the Trustees, any employee of an Employer who is engaged in administering or managing the Scheme on behalf of the Trustees, any person engaged to do any act in connection with the Scheme and any person to whom any of the powers, discretions or duties of the Trustees have been delegated may:
- (a) exercise his powers and discretions and discharge his duties even if he is also a Member or Beneficiary and no such exercise or discharge shall be invalid on the ground that he has a direct or other personal interest (of any nature) in the subject matter;
 - (b) retain for himself any benefit to which he is entitled by virtue of his Membership or being a Beneficiary;

- (c) deal with, or concur in dealing with, or enter into any transaction connected with the Fund or any asset in which he has an interest, as if he had no connection with the Scheme and is not liable to account for any profit or other benefit;
 - (d) act as a partner, director, officer or employee of any company, business or partnership in which the Trustees hold shares or any other interest or which, or any part of which, forms part of the Fund and retain any remuneration received in that capacity even though the Fund (or his connection with it) may have assisted him in earning it.
- 12.4 Subject to section 34 of the 1995 Act and to clause 12.5 and without prejudice to the rest of this clause 12, any person to whom any of the Trustees' investment powers under the Definitive Deed have been delegated may be authorised to retain any benefit received through acting as a delegate (and such authorisation may also apply to any associate of the delegate).
- 12.5 Nothing in this clause 12 shall authorise any action which would result in the Scheme making an Unauthorised Payment or being treated as making an Unauthorised Payment, whether by virtue of section 174 of the FA 2005 (value shifting) or otherwise.
- 13 Exclusion of liability**
- 13.1 To the extent permitted by law and subject to clause 14 and sections 33 and 34 of the 1995 Act no Trustee shall incur any liability for:
- (a) the exercise or failure to exercise any power or discretion;
 - (b) acting as a Trustee of the Scheme;
 - (c) the acts and omissions either of co-Trustees, agents, employees, delegates or Advisers or any other person; or
 - (d) any other act or omission.
- 13.2 Subject to clause 14 the Employers (on a joint and several basis) shall indemnify each and all of the Trustees against any costs, claims, demands, expenses, proceedings and liabilities which they may incur through acting as a Trustee of the Scheme except in cases of fraud by any Trustee (where the Trustee who committed fraud and any Trustee who knowingly ignored the fraud shall not be so indemnified). Subject to section 31 of the 1995 Act, should the Employers fail to indemnify them (whether in full or in part) the Trustees shall be entitled to be indemnified from the Fund.
- 13.3 For the avoidance of doubt (but without prejudice to the generality of the foregoing) the indemnities in clause 13.2 shall apply in relation to any action taken (or omitted to be taken) by any Trustee concerning:
- (a) the value at any time of a person's Accumulated Credit;
 - (b) the nominal allocation of Fund assets pursuant to clause 16.3;
 - (c) any payment to an Employer pursuant to clause 34; and
 - (d) the provisions of clause 5.8.
- Should the Independent Trustee fail to be fully indemnified to any extent in accordance with this clause, the Member Trustees shall instead indemnify the Independent Trustee in the same terms as apply under this clause.
- 13.4 The Trustees shall be entitled to rely upon any advice or recommendations given by any Adviser and will incur no personal liability in doing so.
- 13.5 The Trustees shall not be accountable for any payment they may make:

- (a) to a minor direct, or to his parent or guardian or other person with whom he is living;
- (b) to any person who the Trustees believe to be a Spouse, even if it subsequently transpires the person is not a Spouse; and
- (c) to any institution or individual who the Trustees believe to be responsible for the care of a Beneficiary.

13.6 The Trustees shall not be obliged to bring, pursue or defend any legal proceedings in relation to the Scheme except if they so decide. However where any legal proceedings are brought, pursued or defended the costs and expenses of doing so shall be an expense of the Scheme for the purposes of clause 15.

13.7 Without prejudice to the rest of this clause 13, the Independent Trustee shall have no liability to any person for any loss or liability arising out of withdrawal of Approval or Registration from the Scheme, whether caused directly or indirectly by any investment transaction or any action not endorsed by the Independent Trustee.

13.8 The provisions of this clause apply without prejudice to any further protection afforded to the Trustees by statute, common law or otherwise but are subject to the limitations set out in clause 14.

14 Limitation and extent of protection

14.1 The provisions of clause 13 shall not protect a Trustee in relation to any breach of trust arising out of fraud.

14.2 If the inclusion of any words in clause 13 and/or this clause 14 would at law render ineffective any protection given to any Trustee (whether given by law or under this Definitive Deed) then the clause is to be construed otherwise to the minimum extent necessary so that the protection would not be rendered ineffective.

14.3 The provisions of clause 13 and this clause 14 shall also apply to:

- (a) all officers and employees of a corporate Trustee;
- (b) former trustees of the Scheme; and
- (c) the Administrator of the Scheme (for which purpose the final paragraph of clause 13.3 shall apply to the Administrator as it applies to the Independent Trustee).

14.4 No indemnity under clause 13 shall apply in respect of any loss or liability that is covered by any insurance or policy of indemnity. Where the terms of any such insurance or policy of indemnity provide that cover will only be provided to the extent that an indemnity is not available from another source, no indemnity under clause 13 shall have effect in relation to any liability which would otherwise be fully covered by the insurance or policy of indemnity.

15 Scheme expenses

15.1 The costs and expenses of running the Scheme shall be paid from the Fund unless the Principal Employer decides they shall be paid by the Employers (in such proportions as the Principal Employer shall decide).

15.2 Where any of the Employers defaults in paying any costs or expenses of running the Scheme, such costs and expenses shall (where possible) be paid from the Fund on such basis as the Trustees shall decide.

15.3 For the avoidance of doubt but without prejudice to the generality of the foregoing the costs and expenses shall include any incurred by the Trustees pursuant to the Definitive Deed or otherwise in performance of their duties or the exercise of their powers or discretions.

16 Control of the Fund

- 16.1 The Fund shall be vested in the Trustees as joint tenants and held by them upon irrevocable trusts in accordance with the terms of the Definitive Deed.
- 16.2 All monies, assets, investments and property received by the Trustees for the purposes of the Scheme shall form part of the Fund. They may be retained in the Fund or sold if and when the Trustees decide, including for the purpose of arranging benefits or making transfers in respect of benefits.
- 16.3 Subject to clause 16.7, the Trustees may from time to time nominally allocate assets from the Fund for such purposes as they decide and may change any such allocation from time to time, provided Registration is not thereby prejudiced.
- 16.4 The Trustees may hold assets of the Fund either in the name of the Trustees or any of them or jointly with some other person or in the name of a nominee or Custodian or sub-custodian. However the Independent Trustee must always be the registered co-owner of any assets unless it expressly agrees otherwise.
- 16.5 Any Custodian so appointed may appoint sub-custodians and nominees without prior approval by the Trustees provided that the extent of the Custodian's liability for the acts and omissions of any such sub-custodians and nominees is disclosed in writing to the Trustees before the appointment of the Custodian.
- 16.6 At any time when the Trustees are a sole corporate trustee and not a Trust Corporation, the Trustee may appoint another person to hold any real property in the Fund jointly with it.
- 16.7 The Trustees shall exercise their powers under clause 16.3 in a manner which they are satisfied will not result in the Scheme making or being treated as having made an Unauthorised Payment. Without prejudice to the generality of the foregoing, the Trustees shall exercise their powers in a manner which they are satisfied will not give rise to an Unauthorised Payment or to an Unauthorised Payment being treated as having been made, pursuant to:
- (a) section 172 of the FA 2004 (Assignment);
 - (b) section 172A of the FA 2004 (Surrender);
 - (c) section 172B of the FA 2004 (increase in rights of connected person on death);
 - (d) section 172C of the FA 2004 (Allocation of unallocated employer contributions);
 - (e) section 174 of the FA 2004 (Value shifting); or
 - (f) section 181 of the FA 2004 (Value shifting).

17 Investment

- 17.1 Investments may be made within or outside the United Kingdom whether or not:
- (a) involving a liability on the Fund;
 - (b) producing income;
 - (c) authorised by law for the investment of trust monies; or
 - (d) of a wasting or reversionary nature.

Subject to clause 18 the Trustees shall have the same full and unrestricted powers of investment as if they were absolutely and beneficially entitled to the Fund.

17.2 Without prejudice to clause 17.1 but subject to clause 18 the Trustees may invest the Fund in or upon the security of any:

- (a) contract or policy of any kind issued by a United Kingdom office or branch of an Insurer;
- (b) scheme of deposit administration;
- (c) unit trust, investment trust, managed fund, mutual fund or common investment fund;
- (d) deposit with a local authority, bank, building society, finance company or other financial institution;
- (e) stocks, shares, debentures and debenture stocks (whether by purchase, subscription, underwriting, sub-underwriting or otherwise);
- (f) gilts, government securities and other interest bearing investments whether at a fixed or variable rate;
- (g) traded options (as defined in section 144(8)(b) of the Taxation of Chargeable Gains Act 1992);
- (h) transactions and financial futures on the London International Financial Futures Exchange;
- (i) gold bullion or any other commodity;
- (j) interest in land or property (either in their own right or jointly with any other party);
- (k) currency, contract, guarantee, option, derivative or other agreement in connection with any of the above; and
- (l) personal chattels.

17.3 No investment of the Fund may be made unless:

- (a) each Member, Deferred Pensioner and Pensioner agrees in writing to the making of that investment;
- (b) Registration shall not be prejudiced; and
- (c) the 1995 Act shall not be contravened.

Subject to this and to clause 18 the Trustees may make investments in any of the Employers. For this purpose, investment includes any dealings in shares, securities, assets or land or the entering into of any loan, guarantee, indemnity or agreement.

17.4 Before any investment is made each of the [Members, Deferred Pensioners and Pensioners] shall agree in writing to the making of that investment unless the Trustees have delegated all or any of their powers of investment pursuant to clause 9.

17.5 The Trustees shall if so required by section 35 of the 1995 Act prepare and maintain a statement of principles governing the investment of the Fund. The statement shall comply with section 35 of the 1995 Act.

17.6 As regards any real property held as an investment of the Scheme the Trustees may enter into any lease, licence, option, development or other contract in relation to it.

17.7 Subject to clause 17.3 and clause 18 and any other requirements of the Revenue the Trustees may enter into any transaction involving the Fund with any Employer or the trustees of any other trust. Such transaction shall be valid irrespective of whether the directors of any such Employer or trustees of any such trust are one or more of the Trustees, provided that

Registration is not prejudiced by this transaction. Where the Trustees enter into any transaction with the trustees of another trust the Trustees may hold or be entitled to such share of the mixed investments as they agree with the trustees of the other trust.

- 17.8 The Trustees may appropriate any insurance policy or contract in the Fund to pay benefits from the Scheme in accordance with the Definitive Deed except for a policy representing Members' or former Members' AVCs.
- 17.9 The Trustees may purchase annuity contracts or policies in their own names or the name of any Beneficiary. The Trustees may assign to any Beneficiary any annuity contract or policy for the purpose of paying benefits in accordance with the Definitive Deed, whereupon the Beneficiary shall cease to have any further rights under the Scheme in respect of the benefits to which the annuity contract or policy relates.
- 17.10 Subject to section 49(1) of the 1995 Act, the Trustees may open any one or more accounts with a bank, building society, finance company or other financial institution. They may make such arrangements as they see fit from time to time regarding the operation of any such account. These arrangements must provide that the Independent Trustee shall be a mandatory signatory to any such account at all times (unless the account only gives rise to a liability or the Independent Trustee has confirmed in writing that it does not require the Trustees to apply this requirement in a particular case).
- 17.11 The Trustees may subject to clause 18 lease any asset held as an investment of the Scheme.

18 Restrictions on investment

- 18.1 The Trustees shall exercise their powers under clause 17 in a manner which they are satisfied is not likely to result in the Scheme making or being treated as having made an Unauthorised Payment. Without prejudice to the generality of the foregoing, the Trustees will exercise their powers in a manner which they are satisfied is not likely to result in the Scheme making or being treated as having made an Unauthorised Payment pursuant to:
- (a) section 171 of the FA 2004 (scheme administration member payments);
 - (b) section 173 of the FA 2004 (use of scheme assets to provide benefits to members and related persons);
 - (c) sections 174 and 181 of the FA 2004 (value shifting); or
 - (d) section 180 of the FA 2004 (scheme administration employer payments).
- 18.2 Save in respect of loans to which section 179 of the FA 2004 does not apply by reason of paragraph 38 of Schedule 36 of the FA 2004 (transitional provisions), in relation to any loan made to or in respect of a sponsoring employer (within the meaning of section 179 of the FA 2004) the Trustees:
- (a) shall not make the loan unless they are satisfied that at the time when it is made the loan will constitute an authorised employer loan within the meaning of section 179 of the FA 2004 and that it is likely to remain so throughout the period for which any part of the loan is outstanding; and
 - (b) shall not agree to any variation in the terms of the loan (or any related charge) unless they are satisfied that such variation is not likely to result in an Unauthorised Payment
- 18.3 In relation to any loan to which paragraph 38(1) of Schedule 36 of the FA 2004 applies (pre-commencement loans to sponsoring employers) the Trustees shall not agree to an alteration in the repayment terms (within the meaning of paragraph 38 of Schedule 36 of the FA 2004) unless they are satisfied that any loan which is treated as being made by virtue of paragraph 38(3) of Schedule 36 of the FA 2004 will at the time when it is treated as being made constitute an authorised employer loan within the meaning of section 179 of the FA 2004 and that it is likely to remain so throughout the period for which any part of the loan is outstanding.

19 Trustees' borrowing powers

- 19.1 Subject to the following provisions of this clause 19, the Trustees may borrow money on the security of all or any part of the Fund or borrow or raise money on any terms and conditions they decide.
- 19.2 The Trustees may exercise the power to borrow in clause 19.1 in order to buy or acquire any property, assets or any interest for the Scheme or for any other purpose provided such purpose is not inconsistent with the Scheme's Registration. The property, assets or interest may be charged as security for the borrowing as if the Trustees were absolutely beneficially entitled to them provided that at all times the liability of the Independent Trustee shall be limited to the assets of the Scheme.
- 19.3 The Trustees shall not borrow any amount unless they are satisfied that the arrangement borrowing condition within the meaning of section 182 of the FA 2004 is met in respect of that amount.
- 19.4 The Independent Trustee must be a party to all Scheme borrowings unless it has agreed otherwise in writing.
- 19.5 The Trustees shall exercise their powers under this clause 19 in a manner which they are satisfied will not result in the Scheme making or being treated as having made an Unauthorised Payment.

20 Power to insure

- 20.1 The Trustees may:
- (a) insure any or all of the Fund against such risks and on such terms and conditions as they decide (and may apply the proceeds of any such insurance to repair, replace or maintain the relevant part of the Fund);
 - (b) insure any benefit payable from the Scheme on such terms and conditions as they decide;
 - (c) subject to section 31 of the 1995 Act effect insurance against any personal liability relating to their office or any liability of the Scheme for such amounts and on such terms and conditions as they decide.
- 20.2 The cost of effecting any such insurance shall be an expense of the Scheme for the purposes of clause 15.

21 Actuarial valuations and accounts

- 21.1 The Trustees shall instruct the Actuary to prepare a valuation of the Scheme's assets and liabilities and provide a report to the Principal Employer and Trustees to the extent that this is necessary or expedient to ensure compliance with legislation. A copy of the valuation must be provided to the Revenue if required by legislation.
- 21.2 The Trustees and the Employers shall make available to the Actuary all accounts, documents and information which he may reasonably require for this purpose.
- 21.3 Subject to the 1995 Act the Trustees shall keep such books, records and accounts as they consider are necessary for the proper running of the Scheme (including compliance with their obligations under the FA 2004).

22 Amendment

- 22.1 The Trustees may by deed with the consent of the Principal Employer alter, add to, delete or replace all or any of the trusts, powers and provisions of the Scheme with effect from the date specified in that deed (whether that date is retrospective, immediate or prospective).

22.2 Any amendments relating to the winding up of the Scheme may only be made with the consent of the Independent Trustee.

22.3 No amendment may be made which would prejudice Registration or which would be contrary to section 67 of the 1995 Act.

23 Augmentation

23.1 The Principal Employer (or any Associated Employer with the Principal Employer's consent) may after consultation with the Actuary request the Trustees from time to time to:

- (a) augment, vary or accelerate the payment of any pension or other benefit derived from or payable or prospectively payable to any person from the Scheme; or
- (b) grant new or additional benefits to or in respect of any person

subject to:

- (a) this not resulting in the Scheme making an Unauthorised Payment or being treated as having made an Unauthorised Payment; and
- (b) Registration not thereby being prejudiced.

23.2 The Trustees shall implement the request provided the relevant Employer pays such additional contributions (if any) as the Trustees may require, after consultation with the Actuary, and provided that they are satisfied that Registration will not thereby be prejudiced and that implementation of the request will not result in the Scheme making or being treated as having made an Unauthorised Payment.

24 Employers participating in the Scheme

24.1 The Principal Employer with the consent of the Trustees may allow an Associated Employer to participate in the Scheme provided this would not prejudice Registration. No person shall continue as an Employer if this would prejudice Registration. In such circumstances the Employer shall automatically cease to participate in the Scheme and cease being an Employer pursuant to clause 25.

24.2 Any new Employer must enter into a deed of participation with the Principal Employer and the Trustees containing a covenant on the Associated Employer's part to observe and perform the relevant provisions of the Definitive Deed (and which shall be in such form as the Trustees may reasonably prescribe). Participation shall take effect from the date stated in the deed of participation, whereupon the Associated Employer shall be deemed to:

- (a) be bound by the terms of the Definitive Deed; and
- (b) have nominated the Principal Employer to act on its behalf for the purposes of sections 16-22, 35(5), 58 and 87 of the 1995 Act and any other matter which, under the 1995 Act, the Principal Employer may be so nominated.

24.3 The Employers shall supply to the Trustees and their Advisers such information as they are required to provide pursuant to the 1995 Act. In addition:

- (a) the Employers shall supply to the Trustees such further information as the Trustees may reasonably require for the running of the Scheme; and
- (b) the Trustees shall have the right on request:
 - (i) to have reasonable access to any records relevant to such administration which are in the custody or control of the Employers; and
 - (ii) to take copies of those records free of charge.

25 Replacement of Principal Employer

25.1 The circumstances referred to in this clause 25.1 are:

- (a) if an order or resolution is passed for the liquidation (whether voluntary or compulsory) or winding-up of the Principal Employer;
- (b) where an administrator or administrative receiver (or official receiver) is appointed over the undertaking or any of the assets of the Principal Employer;
- (c) if the undertaking of the Principal Employer is acquired by another person or the Principal Employer becomes a subsidiary of another company;
- (d) if the Principal Employer has ceased to contribute to the Scheme; or
- (e) if the Principal Employer ceases to participate in the Scheme for any reason.

25.2 If the circumstances referred to in clauses 25.1(a), 25.1(b), 25.1(c), 25.1(d) or 25.1(e) arise and a person (the "New Principal Employer"):

- (a) succeeds to all or most of the business of the Principal Employer;
- (b) executes a deed of substitution with the Trustees and the Principal Employer (in such form as the Trustees may reasonably prescribe) under which the New Principal Employer agrees to assume and undertake all the obligations, powers and discretions of the Principal Employer under the Scheme; and
- (c) the Revenue does not object to the substitution of the New Principal Employer in place of the current Principal Employer

then with effect from such date as is stated in the deed of substitution:

- (a) the current Principal Employer shall be discharged and released from all obligations as Principal Employer under the Definitive Deed and shall cease to be the Scheme's Principal Employer; and
- (b) the New Principal Employer shall become the new Principal Employer of the Scheme and the Definitive Deed shall take effect so that all references to the Principal Employer mean the New Principal Employer.

25.3 If the Trustees have resolved pursuant to clause 27.2 to vest the powers and discretions of the Employers solely in the Trustees the current Principal Employer shall not be required to be a party to the deed referred to in clause 25.2(b).

26 Cessation of participation of an Employer

26.1 Subject to clause 26.2 and without prejudice to clause 27, an Employer shall cease to participate in the Scheme upon the happening of any of the following:

- (a) the Principal Employer giving notice to the Trustees terminating the participation of the Employer in the Scheme;
- (b) the effective date of a notice given by the Employer to the Trustees by which the Employer terminates its liability to contribute to the Scheme;
- (c) the Trustees deciding that cessation of participation is necessary for the Scheme to retain Registration;
- (d) where the Employer fails to pay any sum which it owes to the Trustees within one month after receiving from the Trustees a written demand for payment of the same and the Trustees resolve that its participation shall cease; or

- (e) where:
 - (i) the Employer has ceased to carry on business or all of its employees have transferred to another person or undertaking;
 - (ii) the Employer goes into voluntary or compulsory liquidation; or
 - (iii) the Employer has an administrator, administrative receiver or the official receiver appointed over its undertaking or any of its assets.

26.2 Where clause 26.1 applies the Trustees shall determine the date at which all the Members employed by that Employer at the relevant date shall cease to be Members and become Deferred Pensioners. The relevant Accumulated Credits shall then be dealt with in one or more of the following ways at the Trustees' discretion, namely:

- (a) preserving them in the Scheme in accordance with the Preservation Requirements until benefits become payable in accordance with the Rules;
- (b) setting apart such part of the Fund as the Trustees may decide and applying it in a partial wind-up in accordance with clauses 29 and 30; or
- (c) effecting a transfer out in relation to one or more former Members in accordance with Rules 15 or 16.

26.3 A Employer shall remain liable for any contributions due but unpaid as at the Cessation Date but thereafter shall have no further liability to pay Employer's contributions to the Scheme (save where required by law).

26.4 The Principal Employer may permit a person who has bought or received the assets and/or undertaking (or a significant part of them/it) of an Employer to participate in the Scheme on such terms and for such period as it may decide provided that Registration is not thereby prejudiced. Where required by the Revenue the Employer/person must comply with clause 24.2.

27 Winding up triggers/change of control provisions

27.1 On the happening of any of the following:

- (a) the Principal Employer going into voluntary or compulsory liquidation or, in the case of a Principal Employer which is a partnership, the partnership being dissolved;
- (b) the Principal Employer has an administrator, administrative receiver or the official receiver appointed over its undertaking or any of its assets;
- (c) the Principal Employer, being a sole trader, having a trustee in bankruptcy appointed to it;
- (d) the Principal Employer ceases to carry on business or all of his employees have transferred to another person or undertaking;
- (e) the Principal Employer ceases to participate in the Scheme for any reason; or
- (f) the effective date of a written notice from the Principal Employer to the Trustees terminating the Principal Employer's liability to contribute to the Scheme

then the Trustees may resolve to wind up the Scheme for the purposes of clause 29 or, subject to the provisions of clause 27.4, run the Scheme as a closed scheme failing which the Scheme shall continue as an ongoing Scheme.

27.2 Where:

- (a) any of clauses 27.1(a) – 27.1(f) apply and no new or replacement Principal Employer is appointed in accordance with clause 25.2;
- (b) the undertaking of the Principal Employer is acquired by another person or the Principal Employer becomes a subsidiary of another person; or
- (c) the Members, the Member Trustees and the Independent Trustee unanimously agree in writing to the exercise of the Trustees' powers contained in this clause 27.2

then the Trustees may if they think appropriate resolve that all the powers and discretions of the Employers (including the Principal Employer) in relation to the Scheme (including, without prejudice to the generality of this clause, the power to appoint and remove trustees pursuant to clause 5) shall vest solely in the Trustees to the extent possible by law unless and until a new Principal Employer is appointed in accordance with clause 25.2 at which time the powers and discretions shall vest again in the new Principal Employer (but not so as to invalidate their exercise whilst vested in the Trustees). This is without prejudice to the Trustees' powers under clause 27.1. Where powers vest in the Trustees pursuant to this clause 27.2 the Trustees shall not be entitled to exercise their powers in a manner which imposes additional liabilities on the Principal Employer or on any of the Employers without its or their written consent where this would not have been possible if the powers had not vested in the Trustees pursuant to this clause 27.2.

27.3 Any resolution to wind up the Scheme must be recorded in writing and shall take effect from the date specified in the resolution which may be:

- (a) prior to the passing of the resolution but after the occurrence of the relevant event specified in clause 27.2; or
- (b) at any time in the future.

27.4 If clause 27.1(a) applies, and no new or replacement Principal Employer is to be appointed in accordance with clause 25.2, the Scheme may only be run as a closed scheme provided the Revenue does not object and, if applicable, subject to such amendments or conditions as the Revenue may require.

28 Scheme run as a closed scheme

28.1 Where the Trustees resolve to run the Scheme as a closed scheme under clause 27.1:

- (a) no new Members shall be admitted to the Scheme;
- (b) no further contributions shall be payable under Rule 3; and
- (c) no further contributions shall be payable under Rule 5 and whilst the Principal Employer and any Associated Employers shall remain liable for any contributions due but unpaid as at the date of the relevant event for the purposes of clause 27.1, it/they shall have no further liability to contribute to the Scheme (save where required by overriding law)

however the Scheme shall continue and the rest of the provisions of the Definitive Deed shall remain in full force and effect.

28.2 At any time whilst the Scheme is being run as a closed scheme:

- (a) the Trustees shall have the same options for dealing with Accumulated Credits as apply under clause 26.2; and
- (b) the Trustees may resolve to wind up the Scheme in accordance with clause 29.

29 Winding up of Scheme

29.1 If the Scheme is wound-up in part or in full the Trustees may seek the Actuary's advice as at such date they think appropriate and shall realise the Fund (or the appropriate part of the

Fund in the case of a partial winding up) at such time and upon such terms as they think fit. No further benefits shall accrue in respect of the relevant Members once the wind-up has commenced and (where not already provided for in the Definitive Deed) those Members shall become Deferred Pensioners as at the date the winding up commences.

- 29.2 In the case of a full Scheme wind up the Trustees shall notify each Deferred Pensioner and any other person in receipt of benefit from the Scheme of the wind up (which shall be in a form which complies with any relevant Disclosure Requirements which may apply). In the case of a partial wind up the Trustees shall comply with any disclosure obligations in the Preservation Requirements which may apply in relation to each Deferred Pensioner who has become a Deferred Pensioner as a result thereof.
- 29.3 Subject to prior payment of all costs, charges and expenses which cannot be recovered from the Employers, any taxes which may be or become due, and subject to the consent of the Independent Trustee, the net proceeds of realisation of the Fund (or the appropriate part thereof) shall be used to secure benefits in accordance with clause 30 in the following descending order of priority, namely:
- (a) benefits already in payment or in respect of which entitlement has arisen; and
 - (b) benefits for and in respect of Deferred Pensioners.
- 29.4 If any balance remains after the priorities referred to in clause 29.3 have been met, the Trustees may use the same to augment the benefits of any of the Beneficiaries subject to Registration not thereby being prejudiced.
- 29.5 Subject to clause 29.6, if any balance still remains after the priorities referred to in clause 29.3 have been met and the power contained in clause 29.4 has been considered it is to be returned subject to the prior agreement of the Revenue, and after payment of any tax liability, to the Principal Employer or (if it no longer exists) to one or more of the Associated Employers which have participated in the Scheme. In the latter case the balance is to be divided between the Associated Employers as the Trustees determine. Payment may only be made to an Associated Employer under this clause if it participated in the Scheme when clause 27.1 started to apply to the Scheme.
- 29.6 Any payment pursuant to clause 29.5 may only be made to the extent that it is an authorised surplus payment within the meaning of section 177 of the FA 2004. To the extent that the provisions of clause 29.5 would otherwise conflict with the requirements for an authorised surplus payment pursuant to section 177 of the FA 2004, clause 29.5 shall be construed as modified to the extent necessary to ensure compliance with section 177 of the FA 2004.
- 29.7 If the Fund is insufficient to secure in full the benefits set out in one of the categories listed in clause 29.3 then they will abate on such basis as the Trustees shall determine.
- 29.8 For the avoidance of doubt benefits:
- (a) are to be categorised under clause 29.3 by reference to their status on the date the wind-up commences (which for the avoidance of doubt is in the case of partial wind-up, when a condition set out in clause 26.1 is satisfied or, in the case of full wind-up, the date specified in the Trustees' resolution);
 - (b) include any which may subsequently become payable on the death of the relevant Beneficiary; and
 - (c) are to be calculated and paid in accordance with the appropriate Rules of the Scheme.
- 29.9 Until the entire Fund has been fully disposed of and the Scheme fully wound up, all the provisions of the Scheme shall remain in force including, but without prejudice to the generality of the foregoing, the power of amendment in clause 22.
- 29.10 The Trustees shall wind up the Scheme on the expiry of eighty years from the date the Scheme was established or such longer period as is permitted by law.

29.11 For the avoidance of doubt AVC Accounts shall be dealt with in accordance with Rule 4.

30 Securing benefits on a winding up/partial winding up

30.1 This clause 30 shall apply on a winding-up or partial winding-up.

30.2 Except where expressly provided otherwise, Accumulated Credits shall be used to secure Pensions through the purchase of appropriate non-commutable, non-assignable annuities with an Insurer in accordance with the Rules and any requirements of the Revenue. Where the Trustees have before the Cessation Date already purchased an annuity in the name of the Trustees, that annuity may be transferred into the name of the relevant Beneficiary. Any such Pension shall be paid as a Scheme Pension or a Lifetime Annuity, save that a Short-term Annuity purchased in the name of the Trustees prior to the Cessation Date may be transferred into the name of the relevant Beneficiary.

30.3 Where permissible under the FA 2004, a Serious Ill-health Lump Sum may be paid, in which case no Pension will be payable in respect of the arrangement to which the Serious Ill-health Lump Sum relates.

30.4 Where permissible under the FA 2004, the Trustees may pay a trivial commutation lump sum, within the meaning of paragraph 7 of Schedule 29 of the FA 2004, or a trivial commutation lump sum death benefit within the meaning of paragraph 20 of Schedule 29 of the FA 2004, in which case payment of such lump sum will extinguish the entitlement to benefits under the Scheme of the former Member or former Member's dependant in respect of whom it is paid.

30.5 Where permissible under the FA 2004, the Trustees may pay a Winding-up Lump Sum or a Winding-up Lump Sum Death Benefit in which case payment of such lump sum will, in the case of a Winding-up Lump Sum extinguish the former Member's entitlement to benefits under the Scheme, and in the case of a Winding-up Lump Sum Death Benefit, extinguish the dependant's entitlement under the Scheme to pension death benefit and lump sum death benefit in respect of the former Member.

30.6 Where permissible under the FA 2004, the Trustees may pay a Short Service Refund Lump Sum, in which case payment of such lump sum will extinguish the former Member's entitlement to benefits under the Scheme.

30.7 Where permissible under the FA 2004, such part of a former Member's Accumulated Credit as the Trustees determine may be applied to provide a Pension Commencement Lump Sum.

30.8 Where permissible under the FA 2004, the Trustees may pay a Refund of Excess Contributions Lump Sum to a former Member.

30.9 Where permissible under the FA 2004, the Trustees may pay a Lifetime Allowance Excess Lump Sum to a former Member.

30.10 To the extent permissible under the FA 2004 and those provisions of the Definitive Deed dealing with lump sum death benefits, the Trustees may pay lump sum death benefits.

30.11 At the request of a Member or former Member the Trustees may effect a transfer out under Rules 15 or 16 upon such terms as they consider appropriate.

30.12 The Trustees may arrange for any Member or former Member to participate in a Receiving Scheme in accordance with Rule 16. For the avoidance of doubt the transfer may include all or any part of an unallocated surplus within the Scheme.

30.13 Benefits and Pensions may be secured by the purchase of such policies or other contracts or investments as may be permitted by law provided that Registration is not thereby prejudiced and provided that the Trustees are satisfied that the Scheme will not thereby be treated as having made an Unauthorised Payment.

Such policies, contracts or other investments may include options as follows:

- (a) for pension to commence at any age at which pension could have been taken in accordance with this Definitive Deed and Rules;
- (b) for exchange of pension for cash, including, where applicable a Serious Ill-health Lump Sum in accordance with this Definitive Deed and Rules;

provided that such benefits shall be purchased only to the extent that they are consistent with Registration and the Trustees are satisfied that they will not result in an Unauthorised Payment being made or treated as having been made and that such policies, contracts or other investments shall be endorsed to show that the benefits thereunder are not capable of assignment.

30.14 The Trustees may at their discretion secure benefits and Pensions for the various categories referred to in clauses 29.2 and 29.3 by different means. They may also secure benefits and Pensions by different means for individuals who are in the same category provided that Registration is not thereby prejudiced.

30.15 The determination of the Trustees as regards the allocation and application of the Fund or any part of it (including any Accumulated Credit) shall be absolute and final and every Beneficiary shall accept whatever may be paid or allotted to or in respect of him from the Scheme as aforesaid in full discharge of all claims in respect of the Fund or the Scheme and shall have no further claim in respect of any rights to benefit under or from the Scheme or otherwise.

31 Notices

31.1 Any notice required under the Definitive Deed may be served by delivering or sending it, in the case of:

- (a) any company (including a corporate Trustee) to its registered office;
- (b) any Employer which is not a company, to its head office or principal place of business; and
- (c) an individual, to his normal place of work or last known private address.

31.2 Notices may be sent by first-class post or delivered personally or by email. Notices by post shall be deemed served two days after the date of posting and notices delivered personally or by email upon delivery.

32 Determination of Questions

32.1 Except as provided for expressly in the Definitive Deed the Trustees shall have full power to determine conclusively any questions or matters of doubt concerning the Scheme or the construction of the Definitive Deed. For the avoidance of doubt any question concerning termination or winding-up of the Scheme shall be determined by the Independent Trustee and the Member Trustees.

32.2 Such determination shall be binding on all interested parties.

33 Governing Law

33.1 The Definitive Deed and the Scheme shall be governed in all respects by and construed in accordance with the laws of England and Wales.

33.2 The parties agree to submit to the jurisdiction of the courts of England and Wales.

34 Authorised surplus payments

34.1 This clause 34 applies where if a payment were made to an Employer it would constitute an authorised surplus payment within the meaning of section 177 of the FA 2004.

34.2 Where this Rule applies such part of the Fund as falls within clause 34.1 may be paid (subject to any tax) to an Employer provided that:

- (a) the requirements of the 1995 Act are met; and
- (b) the Trustees and all Members have unanimously agreed in writing to the making of such payment and any terms on which it is made. For this purpose the power to refer the matter for expert determination under clause 8.4 shall not apply.

35 Taxation

35.1 The Trustees may deduct from any payment under the Scheme or from any relevant Accumulated Credit or from any part of the Fund not allocated to an Accumulated Credit any tax or charge for which they may be liable and also any tax or charge for which the Administrator may be liable (in which case the Trustees shall remit the appropriate amount to the Administrator). For the purposes of this clause 35, an Accumulated Credit is a relevant Accumulated Credit if the tax or charge arises in connection with a Member or former Member to whom the Accumulated Credit relates or related.

35.2 Without prejudice to the generality of clause 35.1, the Trustees may in exercising their powers under this clause 35 make deductions in respect of the following:

- (a) a special lump sum death benefits charge pursuant to section 206 of the FA 2004;
- (b) an authorised surplus payments charge pursuant to section 207 of the FA 2004;
- (c) an unauthorised payments charge pursuant to section 208 of the FA 2004;
- (d) an unauthorised payments surcharge pursuant to section 209 of the FA 2004;
- (e) a lifetime allowance charge pursuant to section 214 of the FA 2004;
- (f) an annual allowance charge pursuant to section 227 of the FA 2004;
- (g) a scheme sanction charge pursuant to section 239 of the FA 2004; and
- (h) a serious ill-health lump sum charge pursuant to section 205A of the FA 2004.

THE RULES

1 Terms of Membership of the Scheme

- 1.1 A person shall be eligible to join the Scheme on the invitation of the Principal Employer.

If at any time:

- (a) the Scheme has funds which are not allocated to the Accumulated Credit of any person or required for the purpose of meeting any existing benefit entitlement under the Scheme;
- (b) all existing Members, Deferred Members, Postponed Pensioners and Pensioners agree;
- (c) the Scheme's Registration would not thereby be prejudiced, and
- (d) the Trustees are satisfied that no Unauthorised Payment would thereby result,

the Trustees may admit a person to Membership (which for this purpose shall include the status of being a Former Member or a Pensioner) on such terms as the Trustees decide provided that such terms may not be such as would impose any additional liability (including contingent liability) on any Employer without its agreement.

- 1.2 If an invitation is made pursuant to Rule 1.1 the Eligible Person shall be notified by an Announcement which shall state:

- (a) a summary of the benefits to be provided; and
- (b) the initial contributions required from him (if any).

- 1.3 Eligible Persons and Members must provide:

- (a) such particulars and complete such documentation and forms as are required by the Trustees from time to time; and
- (b) such evidence of health (including submission to medical examination), age and family circumstances as the Trustees may require from time to time.

- 1.4 Having complied with Rule 1.3 to the satisfaction of the Trustees the Eligible Person shall become a Member with effect from such date as the Principal Employer and the Trustees determine.

- 1.5 If for any reason the information supplied pursuant to Rule 1.3 transpires to be incorrect or incomplete or the Trustees are dissatisfied with any aspect of it the Trustees may modify the terms of Membership and / or any benefits derived from the Scheme in such manner as they consider appropriate. Such changes may be made retrospectively.

- 1.6 The Principal Employer may notify the Trustees in writing that Membership shall be closed to new entrants and/or withdrawn from current Members (for future service). Such notice given shall take effect immediately or at such future date as may be specified in it.

- 1.7 A statement in writing signed by or on behalf of the Principal Employer to the effect that any person is or is not an Eligible Person shall be conclusive.

- 1.8 No person is to be admitted to, remain in or be excluded from Membership if this would prejudice Registration.

2 Cessation of Membership

- 2.1 An individual's Membership shall cease if:

- (a) he exercises any right to terminate his Membership (whether under this Rule or otherwise);
- (b) his Membership is withdrawn under Rule 1.5; or
- (c) clauses 26.2 or 29.1 apply to him.

Rule 9 shall then apply.

- 2.2 A Member may give one months' written notice to the Trustees that he wishes to withdraw from the Scheme and his Membership shall then cease on expiry of that notice.
- 2.3 Anyone who ceases to be a Member will only be re-admitted with the consent of the relevant Employer and the Trustees. If consent is given re-admission shall be on such terms as the Trustees decide.
- 2.4 If a Member is temporarily absent from work the Principal Employer may direct the Trustees to treat that Member as though he remained in Membership, subject to Registration not being prejudiced and subject to the Trustees being satisfied that this will not result in the Scheme being treated as having made an unauthorised payment.
- 2.5 If the Member does not return to work after 10 consecutive years his Membership shall terminate in accordance with Rule 2 unless the Trustees and the Employer agree otherwise, subject to Registration not being prejudiced.
- 2.6 Rules 2.4 and 2.4 shall not apply in the case of maternity leave, paternity leave or adoption leave. A Member who is absent for this reason shall be dealt with under the Scheme in respect of his or her absence as the law requires.

3 Members' Contributions

- 3.1 Each Member shall contribute to the Scheme at the rate determined by his Employer and notified to him in his Announcement. The Employer may amend this rate from time to time by notice in writing to the Member. If no such rate is notified to the Member, he shall not be required to contribute.
- 3.2 Contributions shall begin on the first pay date after admission to Membership and shall cease when Membership comes to an end.
- 3.3 The Employer shall deduct the Member's contributions (together with any AVCs made pursuant to Rule 4) from the Member's pay and remit them as soon as reasonably possible to the Trustees in such manner and at such intervals as the Trustees may require (provided section 49 and section 87 of the 1995 Act are complied with insofar as they apply).
- 3.4 Without prejudice to the generality of the foregoing provisions of Rule 3, no further contributions by a Member shall be accepted without the written consent of the Independent Trustee (which may be given retrospectively) if:
 - (a) there is any Arrangement in respect of the Member to which section 165(3A) of the FA 2004 applies; or
 - (b) the Member has made a declaration to the Administrator which is intended to constitute a declaration for the purposes of section 165(3A) of the FA 2004 that the Member meets the Flexible Drawdown Conditions (whether or not such declaration is in fact valid and whether or not such declaration has been accepted by the Administrator).

Where paragraph (a) or (b) of this Rule 3.4 applies, the Independent Trustee shall have absolute discretion to decide whether to accept any further contributions. For the purposes of this Rule 3.4, "Member" includes a former Member.

4 Members' AVCs

4.1 If the Trustees so agree, a Member may pay contributions to the Scheme in addition to any contributions required under Rule 3 in accordance with arrangements made by the Trustees and subject to the following terms:

- (a) AVCs shall be used to secure for or in respect of that Member increased or additional benefits derived from the Scheme as laid down by the Trustees. For the avoidance of doubt the Trustees shall not be obliged to increase:
 - (i) all or any specific benefit payable to or in respect of the Member; or
 - (ii) all benefits by the same proportion;
- (b) before commencing, ceasing or varying payment of AVCs the Member shall give the Trustees such prior written notice (not exceeding 12 months) as they may from time to time require.

4.2 Where the Trustees so agree, a Member may make contributions in the form of shares where this would constitute a "transfer by the individual of eligible shares in a company within the permitted period" within the meaning of section 195 of the FA 2004.

4.3 The Trustees may allow a Member to make a contribution to the Scheme pursuant to this Rule 4 by way of a transfer to the Scheme of an asset or assets in specie. The Trustees shall not accept a contribution by way of a transfer of assets in specie unless they are satisfied:

- (a) that the Scheme's Registration will not thereby be prejudiced; and
- (b) that such contribution will not result in the Scheme making or being treated as having made an Unauthorised Payment,

but the decision whether to accept a contribution by way of a transfer of an asset or assets in specie shall otherwise be at the Trustees' absolute discretion. The Trustees may impose such conditions as appear to them to be necessary or expedient in connection with the acceptance of such a contribution.

4.4 Without prejudice to the generality of the foregoing provisions of Rule 4, no further contributions by a Member shall be accepted without the written consent of the Independent Trustee (which may be given retrospectively) if:

- (a) there is any Arrangement in respect of the Member to which section 165(3A) of the FA 2004 applies; or
- (b) the Member has made a declaration to the Administrator which is intended to constitute a declaration for the purposes of section 165(3A) of the FA 2004 that the Member meets the Flexible Drawdown Conditions (whether or not such declaration is in fact valid and whether or not such declaration has been accepted by the Administrator).

Where paragraph (a) or (b) of this Rule 4.4 applies, the Independent Trustee shall have absolute discretion to decide whether to accept any further contributions. For the purposes of this Rule 4.4, "Member" includes a former Member.

5 Employers' Contributions

5.1 The Employers shall make such contributions to the Scheme as the Principal Employer may from time to time agree with the Trustees. The Employers shall contribute only such sums as relate exclusively to the benefits to be provided in respect of employment with that Employer.

5.2 A Employer may at any time pay additional contributions to the Trustees provided this does not prejudice Registration and the Trustees are satisfied that this will not result in the Scheme being treated as having made an Unauthorised Payment. Such contributions may be made

either for the general purposes of the Scheme or for one or more of the specific purposes referred to in this Definitive Deed.

- 5.3 Any contributions due from the Employers are to be paid to the Trustees or as they may otherwise direct, provided this would not prejudice Registration and the Trustees are satisfied that this will not result in the Scheme being treated as having made an Unauthorised Payment. Payment is to be made at such intervals as the Trustees with the consent of the Principal Employer may from time to time determine.
- 5.4 Where required to do so by section 87 of the 1995 Act, the Trustees shall prepare, maintain and from time to time revise a schedule of payments in accordance with that section.
- 5.5 Each Employer may terminate its obligation to pay future contributions to the Scheme by giving written notice to the Trustees. In such circumstances clause 26.1 shall apply, save that where the Principal Employer terminates its obligation to contribute, clause 25.1 shall also apply.
- 5.6 Each Employer has the power to suspend or reduce its obligation to make further contributions such that it contributes less than is required under Rule 5.1 above by giving three months' written notice to the Trustees. On doing so:
- (a) the Trustees may wind-up the Scheme at their discretion in accordance with clause 29; or
 - (b) the benefits of that Employer's Members may be modified by the Trustees (in which case the Trustees shall give to every affected Member written notice of the modification of his benefits as soon as is practicable).

The Employer's liability to contribute shall also be reduced or suspended in accordance with such notice except in respect of contributions due on or before the expiry of the notice.

- 5.7 The Trustees may allow an Employer to make a contribution to the Scheme pursuant to this Rule 5 by way of a transfer to the Scheme of an asset or assets in specie. The Trustees shall not accept a contribution by way of a transfer of assets in specie unless they are satisfied:
- (a) that the Scheme's Registration will not thereby be prejudiced; and
 - (b) that such contribution will not result in the Scheme making or being treated as having made an Unauthorised Payment,

but the decision whether to accept a contribution by way of a transfer of an asset or assets in specie shall otherwise be at the Trustees' absolute discretion. The Trustees may impose such conditions as appear to them to be necessary or expedient in connection with the acceptance of such a contribution.

- 5.8 Without prejudice to the generality of the foregoing provisions of Rule 5, no further contributions in respect of a Member shall be accepted without the written consent of the Independent Trustee (which may be given retrospectively) if:
- (a) there is any Arrangement in respect of the Member to which section 165(3A) of the FA 2004 applies; or
 - (b) the Member has made a declaration to the Administrator which is intended to constitute a declaration for the purposes of section 165(3A) of the FA 2004 that the Member meets the Flexible Drawdown Conditions (whether or not such declaration is in fact valid and whether or not such declaration has been accepted by the Administrator).

Where paragraph (a) or (b) of this Rule 5.8 applies, the Independent Trustee shall have absolute discretion to decide whether to accept any further contributions. For the purposes of this Rule 5.8, "Member" includes a former Member.

6 Designation for purposes of Drawdown Pension

A Member may with the agreement of the Trustees designate the whole or such part of his Accumulated Credit as the Trustees agree as "available for the payment of drawdown pension" within the meaning of paragraph 8 of schedule 28 of the FA 2004.

7 Operation of Scheme so as to maintain right to Lower Normal Minimum Pension Age

If the Trustees have so agreed with the Member, the Rules shall be deemed modified in relation to that Member so as to provide that the Member shall only become entitled to a benefit under the Scheme if the retirement condition set out in paragraph 22(7) of Schedule 36 of the FA 2004 is met. The Member may with the agreement of the Trustees subsequently elect not to be dealt with in accordance with this Rule 7. Any such agreement shall be irrevocable.

8 Provision of Pension

- 8.1 At any time from a Member reaching Normal Minimum Pension Age, or from the Ill-health Condition being satisfied in relation to the Member if earlier, the Trustees may apply all or such part as they may determine of the Member's Drawdown Pension Fund for the purpose of providing Income Withdrawal or towards the purchase of a Short-term Annuity.
- 8.2 At any time from a Member attaining Normal Minimum Pension Age, or the Ill-health Condition being met in respect of the Member if earlier, the Trustees may apply all or such part as they may determine of a Member's Accumulated Credit towards the provision of a Scheme Pension or the purchase of a Lifetime Annuity.
- 8.3 Any pension or annuity provided pursuant to this Rule 8 may be provided on such terms (consistent with the other provisions of this Rule 8) as the Trustees in their absolute discretion determine provided that such terms are consistent with compliance with the Pension Conditions. Without prejudice to the generality of this Rule 8.3, such terms may include:
- (a) provision for payment of a pension to continue to be made to any person after a Member's death provided that this is on terms consistent with pension rule 2 of the Pension Rules; and/or
 - (b) provision for a pension to increase or decrease once in payment (on terms consistent with compliance with the Pension Rules).
- 8.4 Without prejudice to the generality of Rule 8.3, any annuity or Scheme Pension may be provided on terms that a pension will be payable to one or more Dependants of the Member in the event of the Member's death subject to compliance with the Pension Conditions and the Pension Death Benefit Rules.
- 8.5 Where a Lifetime Annuity or Scheme Pension is provided for a Member, the Trustees may provide for this to be on terms that an Annuity Protection Lump Sum Death Benefit will be payable in the event of the Member's death before such date as the Trustees may determine. Any such Annuity Protection Lump Sum Death Benefit shall be payable in accordance with Rule 12.12.
- 8.6 If the Member has reached Normal Minimum Pension Age (or the Ill-health Condition is met in respect of him) and the circumstances are such that the FA 2004 permits a lifetime allowance excess lump sum within the meaning of paragraph 11 of Schedule 29 of the FA 2004 to be paid, the Trustees may apply part of the Member's Accumulated Credit in paying such Lifetime Allowance Excess Lump Sum to the Member.
- 8.7 If the circumstances are such that the FA 2004 permits a Pension Commencement Lump Sum to be paid in connection with the Member becoming entitled to Income Withdrawal, a Lifetime Annuity or a Scheme Pension, the Trustees may apply part of the Member's Accumulated Credit in paying a Pension Commencement Lump Sum to the Member. The amount of such lump sum and the timing of the payment shall be consistent with the Pension Conditions and with such lump sum satisfying the requirements for a Pension Commencement Lump Sum but shall otherwise be at the discretion of the Trustees.

- 8.8 If the Trustees have so agreed with the Member, the Rules shall be deemed modified in relation to that Member to the extent required to ensure compliance with the pension condition set out in paragraph 31 of Schedule 36 of the FA 2004. The Member may with the agreement of the Trustees subsequently elect that the modification referred to in this Rule shall not apply. Any such agreement shall be irrevocable.
- 8.9 In relation to the exercise of their powers under Rule 8 the Trustees shall act in accordance with any written instructions received from the Member, but subject to the following conditions:
- (a) the Trustees shall not be obliged to give effect to any instruction if in the Trustees' opinion to do so would cause them to breach the Pension Conditions;
 - (b) the Trustees shall not be required to act in accordance with the Member's instructions if in the Trustees' opinion it is not reasonably practicable to comply with such instructions or if the cost of so doing would, in the reasonable opinion of the Trustees, be wholly disproportionate to the value of the benefits concerned; and
 - (c) the Trustees shall be entitled to request from the Member such information and documentation as they may reasonably require to satisfy themselves that acting in accordance with the Member's instructions will not contravene the provisions of this Rule 8, and to delay acting in accordance with such instructions pending receipt of such documentation or information.
- 8.10 Without prejudice to the generality of Rule 8 the Trustees and the Administrator shall have the maximum discretion permitted by law:
- (a) to decide whether or not to allow a Member to receive payments of Drawdown Pension which, but for the application of section 165(3A) of the FA 2004, would be Unauthorised Payments;
 - (b) to determine the form and content of a Flexible Drawdown Declaration; and
 - (c) to require a Member to provide additional information and/or documentation in connection with a Flexible Drawdown Declaration and to delay acting in connection with such Flexible Drawdown Declaration pending receipt of such information and/or documentation.

9 Benefits on Leaving Service

- 9.1 A Member who ceases to be in Pensionable Service shall, subject to the following provisions of this Rule 9, have benefits provided for him in accordance with Rule 8.
- 9.2 Alternatively the Member may:
- (a) request a transfer payment under Rule 15; or
 - (b) If the circumstances are such that a short service refund lump sum within the meaning of paragraph 5 of Schedule 29 of the FA 2004 may be paid, the Member may elect to receive a short service refund lump sum, the payment of which shall extinguish the Member's entitlement to benefits under the Scheme.

10 Commutation of Pension due to serious ill-health or on grounds of triviality

- 10.1 If:
- (a) the Administrator has received evidence from a registered medical practitioner that the Member is expected to live for less than one year; and
 - (b) the other requirements for payment of a Serious Ill-health Lump Sum in respect of the Member are met,

the Trustees may at their discretion apply such part of the Member's Accumulated Credit as relates to the relevant Arrangement in payment of a Serious Ill-health lump sum. Such payment shall extinguish the Member's entitlement to benefits under the Arrangement.

- 10.2 If a Member has reached the age of 60 and the circumstances are such that a trivial commutation lump sum within the meaning of paragraph 7 of Schedule 29 of FA 2004 may be paid, the Trustees may pay a trivial commutation lump sum to the Member, the payment of which shall extinguish the Member's entitlement to benefits under the Scheme.

11 Life Assurance Benefit

The Trustees may apply part of the Member's Accumulated Credit for the purposes of paying a premium for a life assurance policy effected on the life of the Member. Any proceeds of such policy will be dealt with in accordance with Rule 12.

12 Death of a Member

- 12.1 On the death of a Member, any death benefits payable pursuant to Rules 8 and 11 shall become payable.

- 12.2 If after applying the provisions of Rule 8 in relation to death benefits the Member's Accumulated Credit includes Relevant Uncrystallised Funds, the Trustees may:

- (a) apply all or part of such Relevant Uncrystallised Funds in the payment of a Relevant Uncrystallised Funds lump sum death benefit within the meaning of paragraph 15 of Schedule 29 of the FA 2004. Any such lump sum shall be payable in accordance with Rule 12.12; and
- (b) if the circumstances are such that the FA 2004 permits the payment of a Charity Lump Sum Death Benefit, pay all or part of such Relevant Uncrystallised Funds to the charity nominated by the Member for this purpose (provided that no payment may be made under this Rule 12.2 without the consent of the Independent Trustee).

- 12.3 Where following the death of a Member:

- (a) after the application, where applicable, of Rules 8 and 12.2 the Member's Accumulated Credit comprises (in whole or in part) Relevant Uncrystallised Funds; and
- (b) the Member leaves one or more Dependants,

the Trustees shall, subject to Rule 12.4, apply such Relevant Uncrystallised Funds in one or more of the ways specified in Rule 12.8.

- 12.4 Where the Member leaves more than one Dependant the proportions in which a Member's Accumulated Credit is applied for the benefit of the respective Dependants pursuant to Rule 12.3 or 12.7 as appropriate shall be determined by the Trustees at their absolute discretion. Where the Member leaves more than one Dependant and the Trustees are applying funds in accordance with Rule 12.3 or 12.7, the Trustees shall not be obliged to apply funds for the benefit of every Dependant. The Trustees shall act in accordance with the Pension Conditions and the pension death benefit rules as set out in section 167 of the FA 2004 in the application of this Rule 12.4, but shall otherwise have absolute discretion as to the terms on which any benefits are provided pursuant to Rule 12.3 or 12.7.

- 12.5 Where the Member dies and the other conditions set out in the FA 2004 for payment of a Trivial Commutation Lump Sum Death Benefit are met, the Trustees may at their discretion pay a Trivial Commutation Lump Sum Death Benefit to a Dependant of the relevant Member, the payment of which shall extinguish such Dependant's entitlement under the Scheme to Pension Death Benefit and Lump Sum Death Benefit in respect of the relevant Member.

- 12.6 Where:

- (a) a Member dies; and

- (b) at the time of the Member's death he was entitled to Income Withdrawal under an Arrangement under the Scheme; and
- (c) the circumstances are such that the FA 2004 permits the payment of a Drawdown Pension Fund Lump Sum Death Benefit,

the Trustees may at their discretion apply the whole or part of such amount as represents the Member's Drawdown Pension Fund in respect of the Arrangement immediately before payment is made as a Drawdown Pension Fund Lump Sum Death Benefit payable in accordance with Rule 12.12.

12.7 Where:

- (a) following the death of a Member and after the application of Rule 12.6 if applicable there exists a Drawdown Pension Fund in respect of a Member; and
- (b) the Member leaves one or more Dependants,

The Trustees shall, subject to Rule 12.4 apply funds equal to the relevant Drawdown Pension Fund in one or more of the ways specified in Rule 12.8.

12.8 The ways specified in this Rule 12.8 are:

- (a) provision of one or more Dependants' Scheme Pensions;
- (b) provision of one or more Dependants' Annuities;
- (c) designation as available for payment of Dependants' Drawdown Pension.

12.9 Subject to compliance with the Pension Conditions and the Pension Death Benefit Rules, the Trustees may apply all or such part as they may determine of a Dependants' Drawdown Pension Fund for the purposes of providing a Dependants' Annuity or Dependants' Short-term Annuity or Dependants' Income Withdrawal.

12.10 Where:

- (a) a Member dies leaving no Dependants;
- (b) the Member was entitled to Income Withdrawal in respect of an Arrangement under the Scheme at the date of his death; and
- (c) the Member had nominated a charity for the purpose of receiving a Charity Lump Sum Death Benefit,

the Trustees may (but shall not be obliged to) pay all or such part of the Member's Drawdown Pension Fund as they in their discretion determine to the charity nominated by the Member (provided that nothing in this Rule 12.10 shall oblige or entitle the Trustees to make any payment which is inconsistent with the provisions of the FA 2004 relating to Charity Lump Sum Death Benefits and no payment may be made under this Rule 12.10 without the consent of the Independent Trustee).

12.11 Without prejudice to the generality of Rule 12, the Trustees and the Administrator shall have the maximum discretion permitted by law:

- (a) to decide whether or not to allow a Dependant to receive payments of Dependants' Drawdown Pension which, but for the application of section 167(2A) of the FA 2004, would be Unauthorised Payments;
- (b) to determine the form and content of a Flexible Drawdown Declaration; and
- (c) to require a Dependant to provide additional information and/or documentation in connection with a Flexible Drawdown Declaration and to delay acting in connection

with such Flexible Drawdown Declaration pending receipt of such information and/or documentation.

12.12 In respect of benefits expressed to be payable in accordance with this Rule ("Death Benefit"):

- (a) any Death Benefit shall be held separately from the rest of the Fund on discretionary trusts to be distributed on such terms and in such shares as the Trustees decide to or for the benefit of any of the deceased's Death Benefit Beneficiaries. The Trustees may establish a trust or trusts, on such terms as they may think appropriate, for the benefit of one or more Death Benefit Beneficiaries and may pay to the trust(s) all or any part of the Death Benefit. Any costs and expenses incurred in establishing the trust(s) or making payment to it/them may be deducted from the Death Benefit if the Trustees so decide;
- (b) all Death Benefits shall be distributed within two years of the date of death of the deceased. If all or part of a Death Benefit remains unpaid at the end of two years from the date of death it shall be retained for the general purposes of the Scheme;
- (c) the two year time period specified in Rule 12.12(b) may be extended by the Trustees to such longer time period as may in any specific case be possible without prejudicing the Scheme's Registration or resulting in the Scheme being treated as having made an Unauthorised Payment;
- (d) the Trustees may take account of any expression of wish form completed by the deceased regarding the disposal of any Death Benefit but they shall not be obliged to act in accordance with it;
- (e) if the Trustees are unable to identify and locate any Death Benefit Beneficiaries of the deceased they may at their discretion pay the Death Benefit in such proportions as they decide to such other trust, person or organisation as they may consider appropriate;
- (f) where any person challenges or complains about any decision of the Trustees relating to who should receive any Death Benefit, any legal or other professional costs or expenses incurred by the Trustees in dealing with the challenge or complaint shall be an expense of the Scheme for the purpose of clause 15, save that the Trustees may at their discretion decide that they shall instead be deducted from the Death Benefit in question.

13 Death of a Dependant

13.1 If:

- (a) a Dependant of a deceased Member dies; and
- (b) that Dependant was at the date of the Dependant's death entitled to Income Withdrawal in respect of an Arrangement relating to a deceased Member,

the Trustees may, subject to compliance with the Lump Sum Death Benefit Rule, pay an amount representing the Dependents' Drawdown Pension Fund as a Drawdown Pension Fund Lump Sum Death Benefit. Such amount shall be dealt with in accordance with Rule 12.12.

13.2 If:

- (a) a Dependant of a deceased Member dies;
- (b) there are no other Dependents of the Member still living;
- (c) the Dependant was at the date of the Dependant's death entitled to Dependents' Income Withdrawal in respect of an Arrangement relating to the deceased Member; and

- (d) the Member or the Dependant had nominated a charity for the purposes of receiving a Charity Lump Sum Death Benefit,

the Trustees may (but shall not be obliged to) pay all or such part of the Dependents' Drawdown Pension Fund as they in their discretion determine to the charity nominated by the Member (or if no such nomination was made by the Member the charity nominated by the Dependant) provided that nothing in this Rule 13.2 shall oblige or entitle the Trustees to make any payment which is inconsistent with the provisions of the FA 2004 relating to Charity Lump Sum Death Benefits and no payment may be made under this Rule 13.2 without the consent of the Independent Trustee.

14 Prohibition of Assignment of Benefits and Forfeiture

- 14.1 Except to the extent allowed by the 1993 Act or the 1995 Act or Part 1) of the Schedule and to the extent to which this can be done without the Scheme being treated as having made an Unauthorised Payment pursuant to sections 172 to 174 of the FA 2004 or otherwise no benefit payable under or derived from the Scheme is capable of being charged or assigned nor can a lien or set-off be exercised in respect of such benefit. No attempt by anyone to effect a transaction which is not permitted under this Rule shall be binding upon the Trustees.
- 14.2 No person shall be entitled to any benefit or payment from or derived from the Scheme more than six years after it has fallen due if the reason for non-payment was his failure to claim it in accordance with section 92(5) of the 1995 Act. Subject to Rule 14.3 and to this not giving rise to an Authorised Payment any such payment or benefit shall be forfeited and used for the general purposes of the Scheme.
- 14.3 Notwithstanding Rule 14.2 the Trustees may (with the consent of the Principal Employer) elect to pay to or in respect of the person in question part or all of the relevant payment or benefit.
- 14.4 This Rule applies where a Member or former Member:
- (a) owes a monetary obligation to an Employer arising out of a fraudulent, negligent or criminal act or omission;
 - (b) is a Trustee who owes a monetary obligation to the Scheme arising out of a breach of trust by him; or
 - (c) owes a monetary obligation to the Scheme as a result of a criminal, negligent or fraudulent act or omission.
- 14.5 Where the obligation is owed to an Employer:
- (a) the relevant Employer shall deliver to the Trustees notice of the amount of the monetary obligation it considers is owed to it as a consequence of the fraudulent, negligent or criminal act or omission;
 - (b) upon receipt of the notice the Trustees shall consult with the Actuary and determine an appropriate reduction to the Member's or former Member's Accumulated Credit or benefits (as appropriate) to reflect the amount of the obligation; and
 - (c) the Trustees shall then deliver a copy of the notice to the Member/former Member and notify him of the proposed reduction. They may in their discretion modify the reduction in light of any representations made by him but their ultimate decision shall be binding upon him.
- 14.6 Where the obligation referred to at Rule 14.4(a) is owed to an Employer, without prejudice to any other remedy it may have, the Employer shall be entitled to reimbursement from the Accumulated Credit of the Member or former Member in question (less any tax which may be chargeable).
- 14.7 Where the obligation is owed to the Scheme:

- (a) the Trustees may consult with the Actuary and may determine an appropriate reduction as above to reflect the amount of the obligation; and
- (b) the Trustees shall then deliver a notice to the Member/former Member notifying him of the amount of the obligation and the appropriate reduction. They may at their discretion modify the reduction in light of any representations made by him but their ultimate decision shall be binding upon him.

14.8 Notwithstanding the above the Trustees may not make any reduction or reimbursement:

- (a) unless the notice delivered to the Member/former Member is either not disputed or the obligation has become enforceable in accordance with section 91(6) of the 1995 Act;
- (b) in respect of any benefits transferred into the Scheme under Rule 17 (except to the extent permitted by sections 91, 92 or 93 of the 1995 Act);
- (c) which is more than the amount of the obligation or (if less) the value of the Member's/former Member's entitlement or Accumulated Credit (as appropriate) under the Scheme;
- (d) if it contravenes the Preservation Requirements; or
- (e) if in the opinion of the Trustees it would result in the Scheme being treated as having made an Unauthorised Payment.

15 Individual Transfers from the Scheme

- 15.1** A Member may request in writing a transfer value payment in lieu of his Accumulated Credit or any benefits from the Scheme if such payment would constitute a Recognised Transfer.
- 15.2** If such a request is made the Trustees shall (subject to such payment constituting a Recognised Transfer and Rule 15.3) pay to the Receiving Scheme the Cash Equivalent for the Member. The transfer is to be made in accordance with any requirements of the 1993 Act, the 1995 Act or the FA 2004 which apply to it.
- 15.3** Whilst a Member remains a director or employee of any Employer the Trustees may decide that no transfer shall be made (other than in respect of benefits relating to Pensionable Service after 5th April 1988).
- 15.4** Provided this is consistent with the statutory provisions relating to Recognised Transfers a Member or Deferred Pensioner may request the Trustees to use his Cash Equivalent to purchase for him an annuity policy or contract with an Insurer. The purchase price of the policy or contract shall be equal to the Cash Equivalent referred to in Rule 15.2.
- 15.5** Once a transfer has been effected or an annuity policy or contract has been purchased all rights and benefits under the Scheme relating to or in respect of the transferred funds shall be extinguished. Accordingly, he and all others claiming in respect of him shall have no further interest, benefit or entitlement in or claim in relation to the Scheme in respect of the transferred funds.

16 Bulk transfer out

- 16.1** At the request or with the consent of the Principal Employer the Trustees may arrange for a bulk transfer of all or any part of the Fund in respect of all or any Members or former Members to a Receiving Scheme.
- 16.2** Subject to Rule 16.5 such arrangements may be made without obtaining the consent of any Member or former Member but only, where required, with the consent of the Revenue.
- 16.3** The bulk transfer may be effected by transferring to the Receiving Scheme all or any part of the Fund upon such terms and conditions as shall be agreed between the Trustees and the trustees or administrator of the Receiving Scheme and (if relevant) any other person.

- 16.4 For the avoidance of doubt the transfer may include all or any part of an unallocated surplus within the Scheme.
- 16.5 No bulk transfer shall be made if it would:
- (a) offend against the law of perpetuities;
 - (b) prejudice Registration or, in the opinion of the Trustees, result in the Scheme being treated as having made an Unauthorised Payment;
 - (c) breach the Preservation Regulations; or
 - (d) contravene the 1993 Act.
- 16.6 Once a bulk transfer has been made all rights and benefits under the Scheme relating to or derived from the relevant Members or former Members shall be extinguished. Accordingly, they and all others claiming in respect of them shall have no further interest, benefit or entitlement in or claim in relation to the Scheme.
- 17 Transfers in**
- 17.1 If a Member (which term shall, for the purposes of this Rule 17, include a former Member) or other person previously participated in another Registered Pension Scheme the Trustees (with the prior consent of the Principal Employer) may at such person's written request receive a transfer payment in respect of such participation. A person in respect of whom the Trustees have received a transfer payment pursuant to this Rule 17 shall be a Member for the purposes of this Rule 17.
- 17.2 Upon receipt of the transfer payment the Member's Accumulated Credit shall be credited with such notional assets as the Trustees may determine provided this does not prejudice Registration or result in the Scheme being treated as making an Unauthorised Payment.
- 17.3 The Trustees may impose such conditions in relation to the acceptance of any transfer as appears to them to be necessary or expedient for the purpose of ensuring compliance with relevant legislation.

The Schedule

Pension Sharing Requirements

Part 1) - Pension Sharing on Divorce

1. Definitions

For the purposes of this part 1 of the schedule :

1999 Act means the Welfare Reform and Pensions Act 1999

Ex-Spouse means an individual in respect of whom a Pension Sharing Order, agreement or equivalent provision has been made.

Member means someone in membership of the Scheme.

Negative Deferred Pension means the amount by which the Member's pension or deferred pension under the Scheme which arose/arises from Service with the Employer(s), is reduced at the Relevant Date by section 31 of the 1999 Act or under corresponding Northern Ireland legislation, following a Pension Sharing Order, agreement or equivalent provision. For this purpose, Service with the Employer(s) includes all periods of service with other employers which have been treated as if they were Service with the Employer(s) where a transfer payment has been made to the Scheme in respect of that other service.

Pension Credit means a credit under section 29(1)(b) of the 1999 Act or under corresponding Northern Ireland legislation.

Pension Credit Rights means rights to future benefits under a scheme which are attributable (directly or indirectly) to a Pension Credit.

Pension Debit means a debit under section 29(1)(a) of the 1999 Act or under corresponding Northern Ireland legislation.

Pension Debit Member means a Member whose benefits have been permanently reduced by a Pension Debit.

Pension Sharing Order means any order or provision as is mentioned in section 28(1) of the 1999 Act or Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

Pension Sharing Rules means the provisions of this Part 1) of the Schedule

2. Assignment

Rule 14 shall not prevent the assignment of part or all of the Member's retirement benefits or rights to benefits under the Scheme to his/her ex-spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.

3. Disclosure to receiving schemes

The Trustees must give full details of the Pension Debit and any related information to the extent required by legislation, to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another Registered Pension Scheme.

4. Transfers in of Pension Debits

Where the Trustees accept a transfer payment and are informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Trustees must take account of the Pension Debit, if, and to the extent required by law, in the calculation of benefits for that Member. If a transfer of the fund underlying the benefits for the Member is made to a scheme approved under Chapter I Part XIV of the 1988 Act or a scheme approved under Chapter IV

Part XIV of the 1988 Act, the Trustees must give full details of the Pension Debit to the receiving scheme/arrangement.

5. Death of an ex-spouse after a Pension Sharing Order is made but not implemented

If the Ex-Spouse dies after a Pension Sharing Order, agreement or equivalent provision is made but before it is acted upon by the Trustees, the following benefits may be paid at the absolute discretion of the Trustees with the consent of the Principal Employer:

- (a) a lump sum death benefit may be paid to any person in accordance with the discretionary trust provisions of Rule 12.12, to the extent that this can be done without the Scheme making an Unauthorised Payment;
- (b) the balance of the cash equivalent of the fund which would have provided the Pension Credit Rights for the Ex-Spouse may be used to provide a pension to a Dependant of the Ex-Spouse – subject to compliance with the Pension Death Benefit Rules;
- (c) such pensions must be payable in accordance with the Pension Death Benefit Rules. Such pensions may be commuted, however, to the extent permitted by the Lump Sum Death Benefit Rule.

6. Provision for the Trustees to charge

The Trustees may charge for:

- (a) providing any information to anyone that relates directly or indirectly to the Scheme and to divorce or nullity proceedings; and
- (b) implementing Pension Sharing Orders and earmarking orders; and
- (c) and in which either case:
 - (i) is allowed by the Pensions on Divorce etc (Charging) Regulations 2000; or
 - (ii) is not prohibited by law.

7. Pension Credits – Mode of Discharge

Subject to Pension Sharing Rules 8 and 9, the Trustees may discharge their liability in respect of a Pension Credit in any manner authorised by the 1999 Act, and related regulations, and the manner in which they discharge their liability shall, subject to overriding statutory requirements, be at their absolute discretion. The Trustees shall have such ancillary powers as may be necessary to enable them to discharge their liability in respect of a Pension Credit in the manner provided for by either paragraph 1(2) or paragraph 1(3) of Schedule 5 of the 1999 Act and may exercise such powers (including the power to select a qualifying arrangement pursuant to paragraph 1(3) of Schedule 5 of the 1999 Act) without the consent of the person entitled to the Pension Credit to the extent permitted by legislation.

8. No Pension Credit Membership

The Trustees shall not discharge their liability in respect of a Pension Credit by granting Pension Credit Rights under the Scheme.

9. Compliance with FA 2004

In implementing the Pension Sharing Rules, the Trustees shall act in a manner which is consistent with maintaining the Scheme's Registration and which they are satisfied will not result in the Scheme being treated as having made an Unauthorised Payment.

Part 2) - Participating Employers

None