

**Dated 10th February 2010**

**JOHN A DOBBINS LIMITED**

**AND**

**JOHN ANTHONY DOBBINS**

**AND**

**Others**

---

**DEFINITIVE DEED AND RULES  
relating to the John A Dobbins  
Limited Self Administered Pension  
Scheme**

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**ADDLESHAW GODDARD**

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**This Deed is made**

10 TH FEBRUARY

2010

**Between**

- (1) John A Dobbins Limited (No. 01492436). whose registered office is at 18 Hallfield Road, Bradford, BD1 3RQ (Principal Employer)
- (2) John Anthony Dobbins and Valerie Lynn Dobbins of 10 Otley Mount, East Morton, Keighley, BD20 5TD and Pearson Jones and Company (Trustees) Limited whose registered office is at Clayton Wood Close, West Park Ring Road, Leeds, LS16 6QE (Trustees)

**Whereas**

- (A) By an Interim trust deed (Interim Deed) dated 1 November 1991 there was established a retirement benefits scheme called the John A Dobbins Limited Self Administered Pension Scheme (Scheme) to commence on and operate from 1 November 1991 (Commencing Date).
- (B) This deed is supplemental (Inter alia) to, a definitive deed (Old Definitive Deed) made on 23 March 1994 and the rules attached thereto (Old Rules) which sets out the existing definitive provisions of the Scheme.
- (C) The Trustees may, by deed executed by the Trustees and the Principal Employer, amend the provisions of the Scheme.

**It is agreed**

**1 General**

**1.1 Application**

- (a) This Deed confirms that the Scheme was established under irrevocable trusts with effect from the Commencing Date.
- (b) Subject to clauses (c) to (k) the Trustees hereby replace all and any existing documentation with this Deed and the Rules attached with effect from the date of this Deed (the Effective Date).
- (c) This Deed shall not operate to render invalid any act done in relation to the Scheme prior to the Effective Date where such act was valid prior to the Effective Date.
- (d) This Deed shall not operate to render any act or failure to act on the part of the Trustees prior to the Effective Date a breach of trust where such act or failure to act did not constitute a breach of trust immediately prior to the Effective Date.
- (e) Except where expressly stated, nothing contained in this Deed shall be interpreted as affecting any period of Scheme membership in respect of which a transfer payment or a refund of contributions was made before the Effective Date.
- (f) Save to the extent (if any) expressly provided in this Deed and the Rules attached to this Deed the amendments effected by this Deed shall not have the effect of requiring the Trustees of the Scheme to review or alter any decisions which they have made or acts which they have undertaken before the Effective Date regarding allocation of the Scheme assets or the payment of benefits.

- (g) Any benefits which had immediately prior to the Effective Date fallen due for payment but not yet been paid shall be dealt with in accordance with the Scheme's governing provisions as in force immediately prior to the Effective Date.
- (h) Where a member or other beneficiary of the Scheme died before the Effective Date but a benefit payable in respect of such death has not been paid prior to the Effective Date, such death benefit shall be dealt with in accordance with the Scheme's governing provisions as in force immediately prior to the Effective Date, save that if the death occurred on or after A-day the Trustees may agree that the death benefit should be dealt with in accordance with the Scheme's governing provisions as amended by this Deed, provided that this clause 1.1(h) shall not authorise the Trustees to do anything which would breach the provisions of sections 67 to 67I of the 1995 Act.
- (i) If the operation of any of the amendments made by this Deed could be construed as constituting a "regulated modification" for the purposes of section 67A of the 1995 Act, then the amendments made by this Deed shall be restricted but only so far as may be necessary to ensure that no such regulated modification is effected but not further or otherwise and shall in all other respects operate as set out in this Deed.
- (j) The modifications effected by The Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006 shall no longer apply in relation to the Scheme.
- (k) Where by virtue of any provision (however framed) in the rules of the Scheme as they stood immediately before 6 April 2006, the Trustees would be required:
  - (i) to make a payment which, by virtue of section 160 of the Finance Act 2004 would be an unauthorised payment, or
  - (ii) to make such a payment if the consent of the sponsoring employer or any other person was given for their doing so,

the Scheme's provisions shall be construed as conferring a discretion upon the Trustees to make that payment.

This is subject to the qualification that if, immediately before the 6 April, the consent of a sponsoring employer, or any other person, was required before the Trustees could make any other discretionary payment under the scheme, then the discretion conferred by this paragraph (k) may only be exercised with the consent of that person. This paragraph (k) only applies to the extent that it can be added to the provisions of the Scheme without infringing the terms of the Scheme's amendment power.

## **1.2 Trustees**

The appointment of the Trustees named above as the trustees of the Scheme is confirmed.

## **1.3 Administration and Management**

The administration and management of the Scheme shall be vested in the Trustees and the Administrator.

## **1.4 Object of the Scheme**

The object of the Scheme is the provision of benefits consistent with the Scheme's Registration for and in respect of the Members.

**1.5 Irrevocable Trust**

The Fund shall be held by the Trustees upon irrevocable trust to be applied in or towards the provision of retirement benefits in accordance with the provisions of this Deed and the Rules.

**1.6 Registration**

The Trustees, the Employers, the Administrator and such other persons as may be prescribed by regulations shall provide HMRC and the Pensions Regulator with such information relating to the Scheme as may be prescribed by legislation.

**1.7 Governing Law**

The Deed and Rules shall be governed in all respects and construed in accordance with the laws of England and Wales.

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

**1.8 Definitions**

The definitions set out in Rule 1 of the Rules apply equally to this Deed.

**1.9 Headings**

The headings in this Deed and the Rules are for convenience only and shall not form part of or affect the construction of the Deed or the Rules.

**1.10 Legislation**

Any reference to a statute, statutory instrument or other legislative provision includes any amendment or re-enactment of it for the time being in force and any regulations made under it. Any reference to a particular section or part of a statute or statutory instrument will be read to include reference to any other relevant section or part of the statute or statutory instrument.

**2 No perpetuity period**

The Scheme shall be exempt from the operation of any rules of law relating to perpetuities during any period while it qualifies under the relevant provisions of the 1993 Act and the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990 (as amended). If such exemption should not apply prior to any of the events leading to the winding-up of the Scheme under Rule 40, the perpetuity period shall be 80 years from the date of this Deed.

**3 Principal employer's covenant with the trustees**

The Principal Employer hereby covenants with the Trustees that until the determination of the trusts of the Scheme and the dissolution of the Fund it will duly perform and observe all the conditions stipulations and provisions which under the Scheme ought from time to time to be performed and observed by the Principal Employer.

#### **4 Appointment, removal and retirement of trustees and administrator**

##### **4.1 Power of appointment and removal of Trustees**

The power of appointing a new or additional trustee or trustees of the Scheme and the power to remove any one or more of the Trustees shall be vested in the Trustees and shall be exercised by deed executed by all of the Trustees. However, at any time following the happening of an event described under sub-Rule 39.1 where the Scheme falls to be wound-up, such power may not be exercised in relation to the removal of the Professional Trustee.

##### **4.2 Number of Trustees**

Unless a body corporate be appointed sole trustee of the Scheme or becomes the sole trustee in accordance with clause 4.4 below, the number of trustees shall not be less than two. If their number is reduced below two the powers of the Trustees shall not be suspended but (except as aforesaid) the necessary replacement Trustee shall be appointed as soon as practicable.

##### **4.3 Professional Trustee**

At least one trustee shall be a Professional Trustee. The Professional Trustee may not be replaced or removed from office without the consent of all the Trustees.

##### **4.4 Resignation or removal of Trustees**

- (a) Any Trustee may resign their appointment as trustee of the Scheme by serving on the other Trustees one month's notice in writing to that effect and at the expiration of the notice the trustees or trustee so resigning shall be deemed to have retired from the trust and the trustee or trustees so resigning shall execute such documents and do such things as may be necessary to give proper effect to such retirement.
- (b) Where a Trustee retires or is removed from acting as a Trustee, he shall be discharged from the trusts of the Scheme.
- (c) On the Professional Trustee or Administrator resigning or being removed from office, the remaining Trustees shall take all reasonable steps to procure that the Professional Trustee or Administrator, as appropriate, ceases to be the registered owner or holder of any part of the Fund as soon as reasonably practicable.
- (d) A Trustee shall be deemed to have vacated office if he shall have died, or become bankrupt, or gone into liquidation, or had any receiver or administrator appointed in relation to any assets of the Trustee.
- (e) In the event of an Insolvency practitioner being appointed to one of the Employers, or on cessation of trading of one of the Employers, then if the Employer concerned is a trustee of the Scheme the said Trustee shall be deemed to have vacated office.

##### **4.5 Trustees' meetings: Trustees decisions**

- (a) Except where the Trustees are a body corporate acting as sole trustee, then subject to 28 days' notice of a meeting being given to each of the Trustees, the Trustees may meet together for the despatch of business adjourn and otherwise regulate their meetings as they think fit.

(b) The Professional Trustee shall be provided with a written statement of the proposed business to be discussed in advance of each such meeting and any relevant documents and correspondence relating to it, and may vote at such meetings by post or by proxy.

(c) All decisions of the Trustees shall be unanimous.

#### **4.6 Manner of exercise of Trustees' powers**

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. 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 Finance Act 2004 (Assignment);
- (b) section 172A of the Finance Act 2004 (Surrender);
- (c) section 172B of the Finance Act 2004 (Increase in rights of connected person on death);
- (d) section 172C of the Finance Act 2004 (Allocation of unallocated employer contributions);
- (e) section 174 of the Finance Act 2004 (Value shifting); or
- (f) section 181 of the Finance Act 2004 (Value shifting).

#### **4.7 Relevant Persons as trustees**

Each Relevant Person shall be a Trustee with effect from the date of becoming a Member or Former Spouse Participant, shall remain as a Trustee for so long as they are entitled to any benefit under the Scheme, and shall immediately cease to be a Trustee on ceasing to be entitled to benefit under the Scheme.

### **5 Scheme Administrator and appointment of Administrator**

- 5.1 The Trustees may appoint a person or body corporate to act as Administrator for the purposes of section 270 of the Finance Act 2004.
- 5.2 The Trustees are hereby appointed as the first Administrator of the Scheme.
- 5.3 The Administrator may at any time resign as the Administrator by giving 30 days' written notice to this effect to the Trustees. The Trustees (or, where applicable, such of them as have not resigned as Administrator) shall then act as the Administrator unless and until a new person is appointed by the Trustees as a replacement Administrator. Where the resignation of a Trustee as Administrator would result in the Scheme having no Administrator, the Trustees shall appoint a replacement Administrator as soon as practicable.
- 5.4 The Trustees may at any time remove the current Administrator by giving 30 days' written notice to him to this effect. The Trustees (or, where applicable, such of them as have not resigned as Administrator) shall then act as the Administrator unless and until a new person is appointed by the Trustees as a replacement Administrator. Where the removal of a Trustee

as Administrator would result in the Scheme having no Administrator, the Trustees shall appoint a replacement Administrator as soon as practicable.

- 5.5 Where the Professional Trustee is the Administrator, the Professional Trustee shall act on the basis of its terms and conditions (including as to remuneration) (as amended from time to time) as may be notified by the Professional Trustee to the other Trustees. Where the Professional Trustee is not the Administrator, the appointment of the Administrator shall be on the terms and conditions (including as to remuneration) as may be agreed between the Trustees and the Administrator from time to time in writing. The fees charged by the Administrator shall be an expense of the Scheme for the purposes of clause 21.
- 5.6 Where by virtue of this clause 5 the Trustees (or, where applicable, such of them as have not resigned or been removed) are required to act as Administrator they shall take such action as may be necessary in order to become the Administrator, including (without prejudice to the generality of the foregoing) making the "required declaration" in accordance with section 270 of the Finance Act 2004.
- 5.7 Where a person has resigned or been removed as Administrator in accordance with this clause 5 but continues to have a liability pursuant to section 271(4) of the Finance Act 2004, he shall, subject to clause 5.4 be entitled to recover from the Scheme the amount for which he is liable by virtue of section 271(4) of the Finance Act 2004 together with any fees, costs and expenses which he incurs in connection with the Scheme (including without prejudice to the generality of this clause 5.7 any actuarial, legal or other professional fees, costs and expenses) by reason of his continuing liability under section 271(4) of the Finance Act 2004.

## **6 Trustees power of delegation**

### **6.1 General**

- (a) The Trustees shall have power to delegate (by power of attorney or otherwise) to any one or more of their number or to any person or persons or a body of persons all or any of the powers, duties, authorities and discretions including the formation of any opinion hereby conferred upon the Trustees as they may deem necessary or desirable for the convenient administration of their duties, including the operation of any banking accounts, and in relation thereto:-
- (i) on or at any time following the happening of an event described under sub-Rule 39.1 where the Scheme fails to be wound-up the operation of such bank accounts shall be carried out by the Professional Trustee: and
- (ii) In circumstances where HMRC requires it, there shall be two co-signatories (one of whom shall be the Professional Trustee) to any banking accounts.
- (b) Notwithstanding anything to the contrary in this clause any delegate appointed pursuant to this clause shall have such of the trusts powers, duties, authorities and discretions for the time being vested in the Trustees under this Deed and the Rules, including the power to delegate under this clause, as the Trustees shall from time to time think fit and arrange with such delegate and the Trustees shall not be bound to supervise the proceedings or be in any way chargeable or accountable for any loss which may be incurred by reason of the act or default of any such delegate or sub-delegate appointed as aforesaid.



## **6.2 Nominees**

The Trustees may hold all or any part of the Fund in the name of one or more nominees.

## **6.3 Investment Managers**

The Trustees shall have power to appoint one or more investment managers or investment or custodian trustees for the Scheme, whether individual or corporate, on such terms as to remuneration and otherwise as shall from time to time be agreed by the Trustees. The Trustees may delegate to any such manager or trustee all or any of the powers, duties and discretions (including the forming of opinions) vested in or required from the Trustees as to the investment or application of the Fund under the provisions of clause 6.1 or under the general law.

## **6.4 Unauthorised Payments**

To the extent that any terms and conditions agreed pursuant to clause 6.1(a) and 6.3 involve payments being 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 Finance Act 2004) unless the Trustees are satisfied that the whole of the payment will be a scheme administration member payment within the meaning of section 171 of the Finance Act 2004 or will otherwise be an authorised member payment pursuant to section 164 of the Finance Act 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 Finance Act 2004) unless the Trustees are satisfied that the whole of the payment will be a scheme administration employer payment within the meaning of section 180 of the Finance Act 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the Finance Act 2004.

## **7 Trustees' power of investment**

### **7.1 Legal control**

All investments and monies for the time being constituting the Scheme and any insurances or annuity contracts that have been effected for the purposes of the Scheme will be held under the legal control of the Trustees.

### **7.2 General powers**

Subject to clause 7.4 and to clause 8 so much of the assets comprised in the Fund as shall not be required under the provisions of the Rules for making any current payment shall be invested by the Trustees in the purchase of or at interest upon the security of such stocks, funds, shares, securities, obligations, units in unit trusts, exempt funds or mutual funds, traded options, financial futures, commodities, commodity futures or foreign currencies, freehold or leasehold land and buildings or other property of whatsoever nature and wherever situate and whether involving liability or not and whether producing income or not or in or upon such loans (except loans to Members or persons having a contingent interest under the Scheme through such Members) or deposits either secured or unsecured as the Trustees in their discretion and without being responsible for loss think fit to the intent that the Trustees shall have the same full and unrestricted powers of investment and of transposing investments in all aspects as if the Trustees were absolutely and beneficially entitled to them.

Any such loans to or deposits with any of the Employers shall be made on normal commercial terms and at a normal commercial rate of interest and shall be subject to clause 7.4.

### **7.3 Joint ventures**

Subject to clause 7.4 and clause 8 the Trustees may participate in any investment or venture jointly with any other party or parties whether the interest of the Trustees is that of partner or of trustee holding the same upon trust for sale or otherwise. The interest of the Trustees in the investment or venture may be a minority, a majority or an equal interest.

### **7.4 Provisions in relation to Loans**

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

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.

### **7.5 Employer-related investments**

Any decision to invest any part of the Fund in employer-related investments shall be agreed in writing by all Members and those persons who otherwise qualify for benefits under the Scheme by reason of having been Members.

## **8 Restrictions on Investment**

- 8.1** The Trustees shall exercise their powers under clause 7 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 Finance Act 2004 (scheme administration member payments);
- (b) section 173 of the Finance Act 2004 (use of scheme assets to provide benefits to members and related persons);
- (c) sections 174 and 181 of the Finance Act 2004 (value shifting); or

(d) section 180 of the Finance Act 2004 (scheme administration employer payments).

**9 Trustees power to borrow**

The Trustees may from time to time borrow money for the purposes of the Scheme at the rate of interest and on such terms as the Trustees shall consider reasonable including money borrowed for the purpose of investment and may for this purpose mortgage, charge or otherwise use as security any or all of the assets of the Scheme including and without prejudice to the generality hereof any real or personal property from time to time held for the purposes of the Scheme including any property purchased with any such borrowed money. However the Trustees shall not borrow any amount unless the Professional Trustee is satisfied that the arrangement borrowing condition within the meaning of section 182 of the Finance Act 2004 is met in respect of that amount. The Trustees shall exercise their powers under this clause 9 in a manner which they are satisfied will not result in the Scheme making or being treated as having made an Unauthorised Payment.

**10 Trustees power regarding land and buildings**

Subject to clause 8, the Trustees have power to lease, mortgage, manage, repair, build, develop, equip, furnish and improve any land heritable or immovable property which may from time to time form part or all of the assets of the Scheme and the Trustees may in that behalf make an outlay of the income or capital of the Scheme or any part thereof.

**11 Trustees power of insurance**

11.1 The Trustees shall have the power to insure against loss or damage by fire or from any other insurable risk any property for the time being subject to these presents to any amount and to pay all premiums for any such insurance at their discretion out of income or capital and so that any money received under such insurance shall be applicable at their discretion either in or towards making good the loss or damage in respect of which it was received or otherwise as if it were proceeds of sale of the property insured.

11.2 The Trustees shall also have power to insure themselves (and where a body corporate is a trustee of the Scheme its directors officers servants or shareholders) and any of their delegates against liability for breach of trust not involving (a) the personal conscious wrongdoing or fraud of themselves or the person concerned, or (b) fines imposed for criminal offences or as civil penalties under the 1995 Act.

11.3 The cost of such insurances shall be borne by the Fund.

**12 Trustees power of modification**

12.1 The Trustees may by deed or resolution modify all or any of the provisions of the Scheme. Such power may be exercised at any time (including any time during any winding-up or partial winding-up of the Scheme) and includes power to amend retrospectively.

12.2 This power may not be exercised in a manner which might detrimentally affect any entitlement or accrued right (as described in the 1995 Act) in respect of any Member which was acquired before the effective date of the amendment unless the 1995 Act otherwise allows.

12.3 However, this clause shall be read and construed as if any restriction on the Trustees' power of modification contained in any document executed in respect of the Scheme prior to the date of execution of this Deed were incorporated herein.

**13 Special provisions relating to the Professional Trustee**

The Professional Trustee will:-

- (a) not agree to any termination of the Scheme otherwise than in accordance with Part VII of the Rules
- (b) not delegate any of the powers to any other Trustee of the Scheme or to any outside person or body acting on behalf of any other Trustee of the Scheme so as to circumvent the provisions of sub-clause (a) above.

**14 Professional charges**

Any Trustee being a Solicitor Accountant or other person engaged in any profession or business including, without limitation, professional trusteeship, shall be entitled to receive commissions and to charge and be paid all usual professional and other charges for work done by him or his firm in connection with the Scheme whether in the ordinary course of his profession or business or not and including acts which a trustee not being in any profession or business could have done personally.

**15 Professional advice**

15.1 The Trustees may from time to time seek the advice of a lawyer, accountant, actuary or other professional person or body corporate offering advice provided by such a professional person on such terms as to their duties and remuneration as the Trustees shall deem appropriate and the Trustees shall not be responsible or liable for any loss resulting from advice so obtained. In particular they shall appoint an Actuary (as provided in clause 20) to perform the duties which under the Scheme ought from time to time to be performed by an Actuary, and shall appoint other advisers where the provisions of the 1995 Act so require.

15.2 None of the Trustees shall act as Actuary or auditor to the Scheme.

**16 Amalgamation**

**16.1 General**

At the discretion of the Trustees the Scheme may absorb or be absorbed by and be amalgamated with any other scheme registered within the meaning of section 150(2) of the Finance Act 2004 and established for the provision of benefits to employees of any of the Employers or of such other employer being a subsidiary associated or holding company of any of the Employers on such terms and conditions as the Trustees shall determine.

**16.2 Scheme absorbed by another scheme**

In the event that the Scheme is absorbed by another scheme as provided in clause 16.1 the Trustees shall transfer the assets of the Scheme to the trustees for the time being of such other scheme and shall thereafter relinquish and be free from all responsibility with regard thereto.

**16.3 HM Revenue & Customs**

Any amalgamation under the provisions of this clause shall be subject to Registration being maintained.

**17 New principal employer**

**17.1 A substitution of a new Principal Employer may be made if at any time:-**

- (a) in the opinion of the Trustees, it is expedient in the interests of the main object of the Scheme that a company or firm (**New Company**) should become the Principal Employer in substitution for the existing Principal Employer (**Old Company**) and
- (b) the Trustees are satisfied that such substitution will not prejudice Registration.

**17.2 Such substitution may be made only by deed executed by the Trustees and the New Company and (if the Old Company shall not have gone into liquidation) the Old Company.**

**17.3 The deed shall contain a covenant by the New Company with the Trustees to undertake all the liabilities of the Principal Employer under the Scheme, and may contain a discharge of the Old Company from all further liabilities under the Scheme (except to the extent that the Old Company may undertake the liabilities of an Associated Employer).**

**18 Inclusion of Employers**

**18.1 The Principal Employer may with the agreement of the Trustees and subject to Registration not thereby being prejudiced extend the scope of the Scheme so as to provide benefits for and in respect of any class of persons whose employer enters into a deed with the Principal Employer and the Trustees binding such employer to comply with and observe the provisions of this Deed and the Rules in relation to an Associated Employer.**

**18.2 If any Associated Employer ceases to be acceptable for the purposes of Registration, such Associated Employer shall be deemed to have withdrawn from the Scheme on the date of expiry of the period within which it may continue to participate without prejudicing Registration.**

**19 Trustees' liability and indemnity**

**19.1 General limitation on liability**

Without prejudice to the right of indemnity given by law to trustees none of the Trustees (and where a body corporate is a trustee of the Scheme none of its directors officers servants or shareholders) shall as a trustee of the Scheme or in respect of the exercise of his rights or powers hereunder (or the failure to exercise the said rights or powers) incur any personal responsibilities or be liable for anything whatsoever except for fraud, other crime or personal conscious wrongdoing.

**19.2 Liability for monies**

The Trustees will be liable only for such monies as they actually receive and will not guarantee any interest in respect of such monies. The Trustees will not be obliged to see that any contributions or other monies payable under the Scheme to them or as they shall direct are paid.

**19.3 Indemnity from the Employers**

The Principal Employer shall indemnify and keep indemnified the Trustees (and where a corporate body is a trustee of the Scheme any or all of its directors, officers, servants or shareholders) and each of them against all or any claims, fines, cost, loss or damages and expenses which they or he may pay or incur which may be made against them or him in

connection with the carrying out of the trusts of these presents. Such indemnity shall include the liability of the Trustees for the remuneration of and all or any claims, costs, loss, damages and expenses which they may incur by action of any person lawfully appointed by them for the carrying out of the purposes of the Scheme. Each of the Employers other than the Principal Employer shall at all times indemnify the Principal Employer for that part of the liabilities under this clause which is in the same proportion as the value of the accrued interests in the Fund of the employees of that Employer bears to the total value of the Fund.

#### **19.4 Indemnity from the Fund**

To the extent that the Employers shall fail within a reasonable time to indemnify the Trustees or any of the directors, officers, servants or shareholders of a corporate Trustee, as the case may be, in accordance with clause 19.3 they shall be indemnified out of the Fund except against fines imposed for criminal offences or as civil penalties under the 1995 Act.

#### **19.5 Former Trustees**

The provisions of this clause shall apply to former trustees of the Scheme in the same manner as they apply to current trustees of the Scheme.

#### **20 Periodic valuations**

**20.1** The Trustees may appoint an Actuary to the Scheme, and may in similar manner remove and replace such Actuary from time to time. The Trustees shall obtain advice from an Actuary whenever they are required under this Deed to do so, and at such other times as they consider it necessary or expedient, or are required by any statutory provision to do so.

**20.2** The Trustees shall submit to HMRC such information as they are required to submit for the purposes of maintaining the Scheme's Registration.

#### **21 Expenses of administration**

The expenses and costs of administration in connection with the Scheme may be borne by the Employers in such proportion by each Employer as the Trustees shall deem appropriate. Such expenses and costs of administration as are not borne by the Employers shall be borne by the Fund. However, where permitted by law, the Trustees may recover any such sums from a Relevant Person (whether by a reduction in benefits under the Scheme or otherwise).

#### **22 Scheme accounts**

The Trustees may obtain audited accounts at any time if such accounts are requested by any statutory authority, and shall do so if requested by the Scheme Actuary or the Professional trustee.

#### **23 Notice to trustees**

Any notice which under the Scheme is required to be given to or served upon the Trustees will be deemed to be sufficiently given to or served upon all the Trustees if given in writing and either delivered to one of the Trustees or sent through the post to the Trustees at their last known addresses.

**Executed as a deed by the parties or their duly authorised representatives but not delivered until the date of this Deed.**

Signed and delivered as a deed by  
**John A Dobbins Limited**  
acting by two directors or by a director and its  
secretary

) ..... *U L Dobbins*  
) Director  
) *John Dobbins*  
) .....  
) Director/Secretary

Signed and delivered as a deed by  
**Pearson Jones and Company (Trustees)  
Limited**  
acting by two directors or by a director and its  
secretary

) ..... *[Signature]*  
) Director  
) .....  
) .....  
) Director/Secretary

Signed and delivered as a deed by  
John Anthony Dobbins  
in the presence of

) .....  
) .....  
) *J Dobbins*  
) .....

*[Signature]*  
.....  
Signature of witness

Name *ANDREA PROCTOR* .....

Address *20 DALE PARK GOWS* .....

*LEADS W516 7PT* .....

Signed and delivered as a deed by  
Valerie Lynn Dobbins  
in the presence of

) .....  
) .....  
) *U L Dobbins*  
) .....

*[Signature]*  
.....  
Signature of witness

Name *ANDREA PROCTOR* .....

Address *20 DALE PARK GOWS* .....

*LEADS W516 7PT* .....

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## **Part 1 - Rules**

### **1 Definitions**

In these Rules, where the context admits, the masculine includes the feminine, the singular includes the plural and vice versa and the following expressions have the following meanings:

**Actuary** means a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries in Scotland or a firm of actuaries whose partners are so qualified or an actuary or actuaries so qualified employed by a body corporate which passes on to the Trustees the advice of that actuary or those actuaries

**Administrator** in respect of the period from and including A-day means the scheme administrator within the meaning of section 270 of the FA 2004.

**Aggregate Retirement Benefit** means the total of:

- (a) a Member's pension arising from the Scheme and any Associated Scheme. For a Special Director who is a 1989 Member, Aggregate Retirement Benefit also includes any benefits from either a retirement annuity contract approved under Chapter III of Part XIV of the 1988 Act or a personal pension scheme approved under Chapter IV of Part XIV of the 1988 Act insofar as those benefits are secured in respect of Service; and
- (b) the pension equivalent of a Member's Lump Sum Retirement Benefit. In calculating the amount of the Aggregate Retirement Benefit of a 1989 Member who ceases to be in Pensionable Service on or after 31st August 1991 the pension equivalent of the Member's Lump Sum Retirement Benefit is one twelfth of its total cash value

**Alternatively Secured Pension Fund** in respect of an Arrangement has the same meaning as in paragraph 11 of schedule 28 of the FA 2004

**Announcement** means the announcement provided to each Relevant Person at the date of joining the Scheme describing the terms of the Scheme as they apply to him

**Annuity Protection Lump Sum Death Benefit** has the same meaning as in paragraph 16 of schedule 29 of the FA 2004

**Approved Arrangement** means any Registered Pension Scheme

**Arrangement** means an arrangement within the meaning of section 152 of the FA 2004

**Associated Employer** means a company or firm which participates in the Scheme under Clause 18 of the Trust Deed

**Associated Employment** means two or more concurrent employments held by the Member which are associated, i.e. where:

- (a) there is a period during which the Member has held all of them,
- (b) the period counts under the Scheme in the case of all of them as a period in respect of which benefits are payable,

- (c) during the period all the Employers in question are associated

**Associated Scheme means**

- (a) for a 1989 Member any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of Service, or
- (b) for a pre-1989 Member any Relevant Scheme providing benefits in respect of Service

**Authorised Insurer means:**

- (a) any insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised by or under Section 3 or 4 of that Act to carry on ordinary long-term insurance business as defined in that Act, or
- (b) an EC company as defined in Section 2(6) of the Insurance Companies Act 1982 which satisfies the requirements of Section 659B of the 1988 Act

**Chapter** means Chapter I of Part XIV of the 1988 Act or any statutory amendment modification or re-enactment thereof for the time being in force

**Charity Lump Sum Death Benefit** has the same meaning as in paragraph 18 of schedule 29 of the FA 2004

**Commencing Date** means the Commencing Date described in the Trust Deed

**Connected Scheme** means any Relevant Scheme which is connected to the Scheme in relation to a Member, i.e. if:

- (a) there is a period during which the Member has been employed by two of the Employers
- (b) the period counts under both schemes as a period in respect of which benefits are payable
- (c) the period counts under one scheme for Service with one of the Employers and under the other scheme for Service with the other Employer.

**Dependant** has the same meaning as in paragraph 15 of schedule 28 of the FA 2004 and shall include a person who was married to the member when the member first became entitled to a pension under the Scheme

**Dependants' Alternatively Secured Pension** has the same meaning as in paragraph 19 of schedule 28 of the FA 2004

**Dependants' Annuity** has the same meaning as in paragraph 17 of schedule 28 of the FA 2004

**Dependants' Income Withdrawal** has the same meaning as in paragraph 21 of schedule 28 of the FA 2004

**Dependants' Scheme Pension** has the same meaning as in paragraph 16 of schedule 28 of the FA 2004

**Dependants' Short – term Annuity** has the same meaning as in paragraph 20 of schedule 28 of the FA 2004

**Dependants' Unsecured Pension** has the same meaning as in paragraph 18 of schedule 28 of the FA 2004

**Dependants' Unsecured Pension Fund** has the same meaning as in paragraph 22 of schedule 28 of the FA 2004

**Employers** means the Principal Employer and any Associated Employer in accordance with the provisions of Clause 18 of the Trust Deed and in relation to an individual Member means those of the Employers by which he is for the time being or was most recently employed

**FA 2004** means the Finance Act 2004

**Final Remuneration** means the greater of:

- (a) the Member's highest basic salary from the Employers upon which tax liability has been determined for any one of the five years before Pensionable Service ends, plus the yearly average of fluctuating earnings for the three years (or other period decided by the Trustees as would not affect Inland Revenue Approval) ending on the last day of that year, provided that fluctuating earnings of a year other than the basic pay year may be increased in proportion to the rise in the Index from the last day of that year to the last day of the basic pay year and
- (b) the yearly average of the Member's total earnings from the Employers which are assessable under Case I or II of Schedule E and upon which tax liability has been determined for any three or more consecutive years ending not earlier than ten years before Pensionable Service ends. Where such earnings are received after the end of any relevant year but were earned or qualified for prior to that date, they may be included in a manner consistent with Inland Revenue Approval

subject to the following:

- (i) for a Member whose Remuneration has been substantially reduced due to Incapacity for a period of more than ten years before Pensionable Service ends, Final Remuneration may be calculated at the date when the Member's remuneration was first reduced
- (ii) where Final Remuneration is calculated using a year other than the twelve months before Pensionable Service ends, the Member's actual remuneration for that year may be increased in proportion to any rise in the Index from the last day of that year up to the end of Pensionable Service

For a pre-1987 Member this method may only apply to the calculation of the maximum amount of the cash payment for the purposes of Revenue Limitations if it is also used to increase the Member's pension benefits in the same proportion

- (iii) an early retirement pension from the Employers may not be included in Final Remuneration
- (iv) no account will be taken of any earnings connected with shares or the right to acquire shares or anything where tax is chargeable under Section 148 of the 1988 Act except where the shares or rights had been acquired before 17th March 1987
- (v) for a Special Director, or any other Member whose remuneration in any tax year after 5th April 1987 has exceeded £100,000 (or other figure prescribed in a Treasury order) Final Remuneration is calculated as in (b) above
- (vi) for a pre-1989 Member in calculating the maximum amount of the Lump Sum Retirement Benefit the maximum Final Remuneration is £100,000 (or other figure prescribed in a Treasury order). This restriction shall not apply to a pre-1987 Member
- (vii) for a 1989 Member Final Remuneration shall not exceed the Permitted Maximum
- (viii) the total amount of any profit-related pay (whether relieved from income tax or not), and benefits in kind assessable for tax under Schedule E (or in other circumstances agreed with the Inland Revenue), may be included under (a) and (b) above and treated as fluctuating earnings.
- (ix) the agreement of the Board of Inland Revenue must be sought if it is intended to include under (a) above fluctuating earnings which were payable in a single year only.
- (x) where at any relevant date Final Remuneration cannot be calculated in full because tax liability on the whole of the Member's Remuneration has not been determined, it may be calculated using those elements of Remuneration which have been finally determined for tax purposes and benefits may be provided on an interim basis. Further benefits may be provided if appropriate when tax liability is fully determined but such further benefits must not cause the Member's total benefits to exceed the appropriate Revenue limits calculated at the date on which benefits were first taken

**Former Spouse** means an individual to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order, agreement or equivalent provision

**Former Spouse Participant** is a Former Spouse who participates in the Scheme. For this purpose the Former Spouse Participant must participate in the Scheme, either:

- (a) solely for the provision of a Pension Credit Benefit, or,
- (b) for the wholly separate provision of a Pension Credit Benefit, where benefits accrue or have accrued to that individual under the Scheme for any other reason.

**Fund** means all the assets held by the Trustees for the purposes of the Scheme

**FSAVCS** means a freestanding additional voluntary contribution arrangement outside the terms of the Scheme to which the Member has contributed

**HMRC** means HM Revenue & Customs

**Ill-health Condition** in the context of determining whether the ill-health Condition is met has the same meaning as in paragraph 1 of schedule 28 of the FA 2004

**Income Withdrawal** has the same meaning as in paragraph 7 of schedule 28 of the FA 2004

**Index** means the Government's Index of Retail Prices

**Incapacity** means physical or mental deterioration which, in the opinion of the Trustees (after obtaining such medical evidence as they see fit) prevents the Relevant Person from following his normal employment or seriously impairs the Relevant Person's earning capacity

**Inland Revenue Approval** means approval of the Scheme by the Board of Inland Revenue as an exempt approved scheme as defined in the Chapter

**Insurer** means an insurance company, EC company or friendly society as described in section 659B of the 1988 Act

**Lifetime Allowance Excess Lump Sum** means a lifetime allowance excess lump sum within the meaning of paragraph 11 of schedule 29 of the FA 2004

**Lifetime Annuity** has the same meaning as in paragraph 3 of schedule 28 of the FA 2004

**Lump Sum Death Benefit** and **Lump Sum Death Benefit Rule** have the same meaning as in section 168 of the FA 2004

**Lump Sum Retirement Benefit** means the total value of all retirement benefits payable in any form other than non-commutable pension arising from the Scheme and any Associated Scheme. For a Special Director who is a 1989 Member, Lump Sum Retirement Benefit also includes any benefits from either a retirement annuity contract approved under Chapter III of Part XIV of the 1988 Act or a personal pension scheme approved under Chapter IV of Part XIV of the 1988 Act insofar as those benefits are secured in respect of Service

**Member** means a person who has been admitted to membership of the Scheme as provided in Part 2 of the Rules. When a Member leaves Pensionable Service, he is only a Member in relation to any benefit payable to or in respect of him. For the avoidance of doubt, in Rule 6 and Rules 9 to 18 "Member" includes any person who has joined the Scheme as a Member in respect of whom there is a Personal Account under the Scheme

**Negative Deferred Pension** means the amount by which the Member's pension or deferred pension under the Scheme which arises from Service, is reduced at the Relevant Date by section 31 of the 1989 Act or under corresponding Northern Ireland legislation, following a Pension Sharing Order, agreement or equivalent provision. For this purpose, Service includes all periods of service with other Employers which have been treated as if they were Service where a transfer payment has been made to the Scheme in respect of that other Service

**Normal Minimum Pension Age** means:

- (a) before 6 April 2010, 50, and
- (b) on and after that date, 55

save that if paragraph 21 of schedule 36 of the FA 2004 would operate to modify the meaning of the term "normal minimum pension age" for the purposes of Part 4 of the FA 2004 (except for section 218(6) and paragraph 19 of schedule 36) in relation to a Member (which for this purpose shall have the same meaning as in Rule 7) the meaning of Normal Minimum Pension Age for the purposes of these Rules shall also be so modified in relation to that Member

**Normal Retiring Date** means the Normal Retiring Date as shown in the Announcement and shall be between age 60 and age 75 inclusive. The Normal Retiring Date of a Former Spouse Participant shall be the same age as the Pension Debit Member to whom the Former Spouse Participant was formerly married

**Pensionable Service** means the period of service with an Employer in respect of which contributions are made under the Scheme in respect of a Member as notified to the Member by the Employer.

**Pension Commencement Lump Sum** means a pension commencement lump sum within the meaning of paragraph 1 of schedule 29 of the FA 2004

**Pension Conditions** in the context of any matter being required to comply with the Pension Conditions means:

- (a) that the action will not prejudice the Scheme's Registration;
- (b) that the Trustees are satisfied that the action will not result in the Scheme making or being treated as making an Unauthorised Payment; and
- (c) that the action is inconsistent with compliance with the Pension Rules

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

**Pension Credit Benefit** means the benefits payable under the Scheme to or in respect of a person by virtue of rights under the scheme attributable (directly or indirectly) to a Pension Credit

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

**Pension Death Benefit** has the same meaning as in section 167 of the FA 2004

**Pension Death Benefit Rules** means the pension death benefit rules set out in section 167 of the FA 2004

**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. Such a Member will either be:

- (a) a Member who is a controlling director of a company which is his Employer if he is a director of the company to whom paragraph (b) of section 417(5) of the 1988 Act applies either at the date on which the marriage was dissolved or annulled, or at any time within the period of 10 years before that date or,
- (b) a Member whose earnings at the date at which his/her marriage was dissolved or annulled exceeded 1/4 of the Permitted Maximum for the year of assessment in which the dissolution or annulment occurred. Earnings for these purposes shall be taken to be the total emoluments
- (c) which were paid to the Member in consequence of Pensionable Service during the year of assessment before the year of assessment in which the marriage was dissolved or annulled, and
- (d) from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993

**Pension Rules** means the pension rules set out in section 165 of the FA 2004

**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

**Permitted Maximum** means the permitted maximum as defined in Section 590C(2) of the 1988 Act

**Personal Account** means an amount which the Trustees shall on the advice of the Actuary determine

- (a) In respect of a Member from time to time having regard to:
  - (i) the Member's contributions to the Scheme
  - (ii) the Employer's contributions to the Scheme deemed by the Trustees on the advice of the Employer to have been made in respect of the Member or the Member's Dependants
  - (iii) the proceeds of any insurance or annuity policy effected by the Trustees in respect of the Member or the Member's Dependants and in particular where the Personal Account is calculated at the date of the Member's death it will include any lump sums or annuities payable as a result of the Member's death under insurance policies effected by the Trustees on the life of the Member.
  - (iv) any transfer payment accepted by the Trustees in accordance with Rule 18
- (b) for a Former Spouse or a Former Spouse Participant, the Pension Credit

as varied in either case by

- (i) the earnings by way of interest payments and capital growth less any losses whether realised or not in respect of the investment (or investments) of the Fund or that proportion (or those proportions) of the investment (or investments) of the Fund deemed by the Trustees to have been made in respect of:
  - (A) the sums received in accordance with (a) and (b) of this sub-Rule and
  - (B) such income to the Fund as is deemed by the Trustees to have arisen from the sums received in accordance with (a) and (b) of this sub-Rule.
- (ii) any surpluses in the Fund emerging from sources other than those described in (a),(b) and (A) of this sub-Rule which the Trustees may at their discretion allocate from time to time to the provision of benefits for a Member.
- (iii) the payment of any benefits to or in respect of the Relevant Person or his Dependents or other beneficiaries.
- (iv) any allowance for the expenses of operating the Scheme on the Member's behalf and providing the Member's benefits which the Trustees may deem appropriate (including any cost of termination of the Scheme under Rule 33.1 which is not payable by or recoverable from the Employers)
- (v) in the case of a Pension Debit Member who is not in receipt of a pension, any Pension Debit.

The Trustees shall in exercising their powers to determine the Personal Account in respect of a person exercise them in such manner that they are satisfied that their determination will not result in an Unauthorised Payment, or in an Unauthorised Payment being treated as having been made. 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 (alteration of unallocated employer contributions); or
- (e) section 174 of the FA 2004 (Value Shifting)

**Principal Employer** means the Principal Employer described in the Trust Deed, subject to Clause 17 of the Trust Deed

**Professional Trustee** means a trustee of the Scheme who is not connected with the Principal Employer, an Associated Employer participating in the Scheme nor any person who has joined the Scheme as a Member in respect of whom there is a Personal Account under the Scheme. For the purposes of this definition, "connected" has the same meaning as in



regulation 2 of The Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991

**Receiving Administrators** means the managers of a Receiving Scheme

**Receiving Scheme** means in relation to the transfer of benefits from the Scheme a Scheme or arrangement to which a Recognised Transfer may be made

**Recognised Transfer** has the same meaning as in section 169 of the FA 2004

**Registration** means the status of being a registered pension scheme pursuant to section 153 of the FA 2004 and "Registered Pension Scheme" has a corresponding meaning

**Relevant Day** means in the month of February the last day of the month and in any other month the thirtieth

**Relevant Person** means a Member or a Former Spouse Participant

**Relevant Scheme** means any other scheme approved or seeking approval under the Chapter, and in respect of a 1989 Member who is also a Special Director, also any retirement annuity contract approved under Chapter III of Part XIV of the 1988 Act or a personal pension scheme approved under Chapter IV of Part XIV of the 1988 Act insofar as those benefits are secured in respect of Service

**Relevant Uncrystallised Funds** has the same meaning as in paragraph 15 of Schedule 29 of the FA 2004

**Remuneration in relation to any year means:**

(a) for a 1989 Member the aggregate of the total earnings for the year in question

(i) from the Employers, and

(ii) in respect of any Associated Employment or any Connected Scheme

which are assessable to Income Tax under Schedule E but excluding any earnings connected with shares or the right to acquire shares or anything where tax is chargeable under Section 148 of the 1988 Act. No earnings in excess of the Permitted Maximum are included

(b) for a pre-1989 Member total earnings from the Employers in the year in question which are assessable to Income Tax under Schedule E but excluding any earnings connected with shares or the right to acquire shares or anything where tax is chargeable under Section 148 of the 1988 Act.

**Revenue Limitations** means the limitations set out in the Appendix to the Rules

**Rules** means these Rules or such other Rules as are for the time being in force having regard to any alterations made therein

**the Scheme** means the Scheme named and described in the Trust Deed

**Scheme Pension** has the same meaning as in paragraph 2 of Schedule 28 of the FA 2004

**Serious Ill-health Lump Sum** means a serious ill-health lump sum within the meaning of paragraph 4 of Schedule 29 of the FA 2004

**Service** means continuous employment on a permanent basis as an Employee with any of the Employers (together with paid maternity leave or (if appropriate) paid family leave in accordance with Rule 24.1) and Service shall be deemed to be continuous although partly with one such Employer and partly with another or others of such Employers. Subject to the approval of the Board of Inland Revenue the expression Service also includes service with any company absorbed by or amalgamated with any of the Employers or which is otherwise a predecessor in business of any of the Employers

For a Special Director who is a 1989 Member, this definition shall not include a period of service for an employer who is associated with the Principal Employer by virtue of a permanent community of interest rather than because one employer is controlled by the other or both are controlled by a third party. Where both such employers are participating in the Scheme separate calculations of maximum benefits are required in respect of the separate periods of Service. For the purpose of this paragraph, "control" has the meaning in section 840 of the 1988 Act or, in the case of a close company, section 416 of the 1988 Act

The Trustees may at their discretion allow the aggregation of broken periods of employment on such terms and conditions as on the advice of the Actuary the Trustees shall think fit except that periods of Service interrupted

- (a) by a break of one month or less, or
- (b) by absence from work in furtherance of a "trade dispute" as defined in Section 27(3)(b) of the Social Security Contributions and Benefits Act 1992

will be treated as continuous (but excluding the break)

Service shall cease when the Employer employing the Member ceases to participate in the Scheme

The meaning of Service for the purposes of the Appendix is as set out in section D of the Appendix

**Short-term Annuity** has the same meaning as in paragraph 6 of Schedule 28 of the FA 2004

**Special Director** means a Member who at any time on or after 17th March 1987 and in the last ten years before retirement or otherwise ceasing to be in Pensionable Service has been a director as defined in section 612 (1) who is within paragraph (b) of section 417(5) of the 1988 Act in relation to the Employers

**Special Regulation** means Regulation 5 of the Retirement Benefits Schemes (Information Powers) Regulations 1995

**Special Rules** means the Special Rules set out at the end of these Rules

**Spouse** in relation to a deceased Member means the spouse who survives as the Member's widow or widower and to whom the Member was married at the date of the Member's death

**the Trust Deed** means the Deed to which these Rules are attached

**the Trustees** means the trustee or trustees for the time being of the Scheme

**1999 Act** means the Welfare Reform and Pensions Act 1999

**1995 Act** means the Pensions Act 1995

**1993 Act** means the Pension Schemes Act 1993

**1989 Member** means a Member who is not a pre-1989 Member

**pre-1989 Member** means a Member:

- (a) who joined the Scheme before 1st June 1989 being a scheme which commenced before 14th March 1989, or
- (b) who the Board of Inland Revenue have agreed in writing to be a pre-1989 Member by virtue of previous membership of a Relevant Scheme

and who in either case has not opted to become a 1989 Member.

A pre-1989 Member may opt to be treated as a 1989 Member at any time before benefits commence, are bought out or otherwise transferred from the Scheme or the attainment of age 75 whichever first occurs.

**the 1988 Act** means the Income and Corporation Taxes Act 1988

**pre-1987 Member** means a pre-1989 Member

- (a) who joined the Scheme before 17th March 1987 being a scheme which commenced before that date, or
- (b) who the Board of Inland Revenue have agreed in writing to be a pre-1987 Member by virtue of previous membership of a Relevant Scheme

and who in either case has not opted to become a 1989 Member

**Transfer Lump Sum Death Benefit** has the same meaning as in paragraph 19 of Schedule 29 of the FA 2004

**Trivial Commutation Lump Sum Death Benefit** has the same meaning as in paragraph 20 of Schedule 29 of the FA 2004

**Unauthorised Payment** means an unauthorised payment within the meaning of section 160(5) of the FA 2004

**Unsecured Pension Fund** in respect of an Arrangement has the same meaning as in paragraph 8 of Schedule 28 of the FA 2004

**Unsecured Pension Fund Lump Sum Death Benefit** has the same meaning as in paragraph 17 of Schedule 29 of the FA 2004

**Winding-up Lump Sum** means a winding-up lump sum within the meaning of paragraph 10 of Schedule 29 of the FA 2004

**Winding-up Lump Sum Death Benefit** means a winding-up lump sum death benefit within the meaning of paragraph 21 of Schedule 29 of the FA 2004

## **Part 2 - Membership**

### **2 Membership**

#### **2.1 Eligibility for Membership**

- (a) Membership of the Scheme is open to such employees or directors of any of the Employers or to such other persons as the Principal Employer with the consent of the Trustees decides are eligible from time to time.
- (b) Employees, directors or other persons who are eligible for membership of the Scheme in accordance with 2.1(a) above shall (subject to Rule 2.2) have the option to join the Scheme and on deciding to do so shall be notified in writing of the date of joining and the terms on which membership shall apply. In particular, on joining the Scheme the person being admitted to membership shall become a trustee in accordance with Clause 4.7 of the Trust Deed.

- 2.2** No person is to be admitted to, remain in or be excluded from active membership if this would prejudice Registration.

## **Part 3 - Pension Sharing Orders**

### **3 Pension Sharing Orders**

Where the benefits of a Member are subject to the provisions of a Pension Sharing Order, the following shall apply:

- (a) The Member's Personal Account, (or if the Member is receiving a pension, the benefits payable to the Member in accordance with these Rules) shall be reduced by the Pension Debt.
- (b) Unless 3(c) below applies, the credit provided to the Former Spouse under the terms of the Pension Sharing Order if not transferred to a Receiving Scheme with the Member's consent, shall be transferred to a Receiving Scheme or otherwise discharged in accordance with the provisions of the 1999 Act and regulations made thereunder. The Trustees shall confirm to the Receiving Administrators that the benefits being transferred relate to a credit under a Pension Sharing Order.
- (c) Where either the Trustees determine, or the Principal Employer determines with the agreement of the Trustees, instead of the payment of a transfer value under 3(b) above, the Pension Credit or the Pension Credit Benefit provided to the Former Spouse under the terms of the Pension Sharing Order shall be held under the Fund and subject to the terms of the Trust Deed and the Rules on the basis applicable to a Former Spouse Participant.

- (d) Any entitlement to benefit as a Former Spouse Participant shall be additional and entirely separate from any other benefits to which the Former Spouse is entitled as a Member.
- (e) On becoming a Former Spouse Participant, the Former Spouse shall become a trustee in accordance with Clause 4.7 of the Trust Deed.
- (f) Subject to 3(g), the provisions of Rules 6, 9, 11, 15, 16, 17 and 18 shall apply to a Former Spouse Participant (or, where applicable to the Dependant of a Former Spouse Participant) as they apply to a Member.
- (g) Where 3(f) would breach overriding legislation, prejudice Registration or potentially result in the Scheme making or being treated as having made an Unauthorised Payment, the provisions of the Rules referred to in 3(g) shall be deemed not to apply or to be modified to the extent necessary to comply with overriding legislation and to avoid giving rise to circumstances in which the Scheme makes or is treated as having made an Unauthorised Payment.

#### **Part 4 – Payments to the Fund**

#### **4 Member's Contributions**

Each Member will contribute to the Scheme at the rate (if any) notified to the Member from time to time.

Save to the extent that the Trustees agree to another method of collection, the Members' contributions shall be collected on behalf of the Trustees by the Employers and must be paid to the Trustees within time limits laid down by the 1995 Act.

#### **5 Member's Additional Contributions**

If the Trustees so agree each Member (which for the purpose of this Rule 5 shall include a Member who has left Pensionable Service) may make voluntary contributions to the Scheme to secure additional benefits.

The Members' voluntary contributions must be paid by the Employers to the Trustees within time limits laid down by the 1995 Act where applicable.

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.

The Trustees may allow a Member 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.

**6 Designation for purposes of Unsecured Pension Fund**

A Member (which, for the purposes of this Rule 6 includes a Member who has left Pensionable Service) who is aged under 75 may with the agreement of the Trustees designate the whole or such part of his Personal Account as the Trustees agree as "available for the payment of unsecured pension" within the meaning of paragraph 8 of schedule 28 of the FA 2004.

**7 Employer's Contributions**

Each of the Employers shall during the continuance of the Scheme contribute such amounts as each Employer shall determine with the advice of the Trustees and the Actuary having regard to such requirements as to the funding of the benefits under the Scheme as are consistent with Registration. At the date of payment of each such contribution each Employer shall notify the Trustees of the proportion of that contribution deemed by that Employer to be in respect of each Member of the Scheme employed by that Employer. The Trustees shall not accept a contribution if they consider that by doing so they would prejudice the Scheme's Registration or cause the Scheme to be treated as having made an Unauthorised Payment.

**8 Employer's Additional Contributions**

**8.1 The Trustees may:**

- (a) augment the pension or annuity in course of payment or prospectively or contingently payable out of the Scheme to or in respect of any Member or Spouse or child or other dependant of a deceased Member or the lump sum payable out of the Scheme on the death of any Member and
- (b) grant benefits out of the Scheme to any director or employee or former director or employee of such Employers or to the Spouse or child or other Dependant of any such director or employee (without regard to whether he may be or have been a Member of the Scheme) who is not entitled to a benefit out of the Scheme and augment any benefits so granted whether in course of payment or prospectively or contingently payable,

subject to the following:

- (i) the Employer (if such augmentation or grant was made with its consent) shall undertake that there shall be paid into the Scheme such special contributions (if any) as the Actuary may certify to be necessary in order to liquidate any additional liability imposed on the Scheme.
- (ii) no benefit payable out of the Scheme shall be granted or augmented in circumstances where this would prejudice Registration or result in the Scheme making or being treated as having made an Unauthorised Payment.

- 8.2 Any of the Employers may in addition to all other payments herein provided for pay any single or periodical sums into the Scheme by way of a special contribution either for the purposes of augmentation of the Scheme or otherwise provided that the Trustees shall not accept a contribution if they consider that by doing so they would prejudice the Scheme's Registration or cause the Scheme to be treated as having made an Unauthorised Payment.
- 8.3 The Trustees shall notify HMRC of any special payment made into the Scheme under the provisions of this Rule in accordance with any requirements of HMRC.
- 8.4 The Trustees may allow an Employer to make a contribution to the Scheme pursuant to this Rule 8 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.

#### **Part 5 – Retirement or withdrawal from service**

### **9 Provision of Pension**

- 9.1 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, but before the Member reaches age 75, the Trustees may apply all or such part as they may determine of the Member's Unsecured Pension Fund for the purpose of providing Income Withdrawal or towards the purchase of a Short-term Annuity.
- 9.2 At any time after a Member has attained age 75, the Trustees may apply all or such part as they may determine of the Member's Alternatively Secured Pension Fund for the purpose of providing Income Withdrawal.
- 9.3 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 Personal Account towards the provision of a Scheme Pension or the purchase of a Lifetime Annuity.
- 9.4 Any pension or annuity provided pursuant to this Rule 9 may be provided on such terms (consistent with the other provisions of this Rule 9) 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 9.4, 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).
- 9.5 Without prejudice to the generality of Rule 9.4, any annuity or Scheme Pension may be provided on terms that a pension will be payable to one or more Dependents of the Member in the event of the Member's death subject to compliance with the Pension Conditions and the Pension Death Benefit Rules.
- 9.6 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 provided that such date must be a date falling before the Member's 75th birthday. Any such Annuity Protection Lump Sum Death Benefit shall be payable in accordance with Rule 20.
- 9.7 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 Personal Account in paying such Lifetime Allowance Excess Lump Sum to the Member.
- 9.8 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 Personal Account 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.
- 9.9 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 election shall be irrevocable.
- 9.10 In relation to the exercise of their powers under Rule 9 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 9, and to delay acting in accordance with such instructions pending receipt of such documentation or information.



**10 Benefits on Leaving Service**

**10.1** A Member who ceases to be in Pensionable Service shall, subject to the following provisions of this Rule 10, have benefits provided for him in accordance with Rule 9.

**10.2** 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.

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

**11.1** 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 Personal Account 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.

**11.2** If a Member has reached the age of 60 but has not reached the age of 75 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.

**12 Life Assurance Benefit**

The Trustees may apply part of the Member's Personal Account 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 20.

**13 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 13. Any such election shall be irrevocable.

#### **14 Dependant's Pension Option**

**14.1** A Relevant Person may by written application to the Trustees not more than two months before (but not later than) starting to receive a pension in respect of the relevant Arrangement request that a pension or pensions commencing on the death of such Relevant Person be provided for a Dependant or Dependents of the Relevant Person and the Trustees may grant such application on the terms that the consideration for the pension or pensions shall be the reduction of the Relevant Person's Personal Account by the amount necessary to provide the pension or pensions. The Trustees may only grant the application to the extent that they are satisfied that this will not prejudice Registration nor result in the Scheme making or being treated as having made an Unauthorised Payment.

**14.2** The amount of the pension or pensions shall be that purchased by the amount of the Personal Account given up under Rule 14.2. The pensions will be payable on such basis consistent with the Pension Conditions as the Trustees decide.

The annual amount of the pension or pensions together with any pension or pensions payable to Dependents under the Scheme shall in no case be permitted to exceed the reduced annual pension payable to the Member.

**14.3** If the proposed Dependant should die before the Relevant Person but after the Relevant Person retires on pension, only the reduced amount of the Relevant Person's pension will continue to be payable.

**14.4** No application under sub-Rule 14.1 shall be capable of withdrawal after being granted by the Trustees except with the Trustees consent in writing.

**14.5** Any such application as aforesaid (whether or not granted) will be cancelled should the Relevant Person or the proposed Dependant die before the Relevant Person actually retires on pension.

#### **15 Transfer Payments to Other Schemes**

**15.1** A Member may request in writing a transfer value payment in lieu of his Personal Account 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) 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** Provided this is consistent with the statutory provisions relating to Recognised Transfers a Member 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.

**15.4** 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, the Member 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.

- 15.5 Where a Member is subject to a reduction in benefits under Rule 28 of an amount as yet unresolved pending the Trustees' certification the above right is subject to the provisions of the 1993 Act.

15.6 **Transfer values**

The Trustees may transfer to the Receiving Administrators such assets representing the Personal Accounts applicable to the persons being transferred or such greater amount (not resulting in the Scheme making or being treated as having made an Unauthorised Payment) as the Trustees may direct, to the intent that the said persons shall be entitled to such rights and benefits under the Receiving Scheme (consistent with the transfer being a Recognised Transfer) as the Trustees may arrange with the Receiving Administrators. For so long as it is a requirement, a transfer to a Receiving Scheme, including a bulk transfer, is subject to prior consultation with the Board of Inland Revenue.

No transfer may be made without the consent in writing of the Relevant Persons concerned unless the Trustees are satisfied that consent is not required under the preservation requirements of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991.

- 15.7 If a Member's benefits in respect of which a transfer is made are subject to a Pension Debt, the Trustees must provide full details of it to the Receiving Administrators.
- 15.8 The Trustees shall confirm to the Receiving Administrators if the transfer value consists wholly or partly of Pension Credit Rights for the benefit of an Former Spouse Participant.
- 15.9 The Trustees shall implement the transfer within the period required by the 1993 Act. Except to the extent required by the 1993 Act, the Trustees shall not be responsible for any loss to any Relevant Person or other person resulting from any delay in implementing the transfer.

16 **Transfer Payments from Other Schemes**

The Trustees shall have power to accept as additions to the Fund any transfer of money, policies, investments or other assets from any Approved Arrangement, subject to Registration not being prejudiced and to acceptance of the transfer not resulting in the Scheme being treated as having made an Unauthorised Payment. Such transfer may include the whole or a specified part of the assets of the Approved Arrangements.

Upon receipt of the transfer payment the relevant Personal Account(s) shall be credited with such amount(s) or 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.

The Trustees may give any undertakings which may be required by HMRC or which may reasonably be required by the trustees or administrators of the Approved Arrangement in relation to any such transfer.

Where a Member has benefits in an Approved Arrangement which relate to a Pension Credit, the Trustees may at the request of the Member accept a transfer of those benefits from the Approved Arrangement, subject to the following:-

- (a) Any such transfer and the benefits relating to it shall be provided from the Scheme in addition to and entirely separate from the benefits to which the Member is otherwise entitled from the Scheme.
- (b) Where the Trustees accept a transfer payment for an individual who is already a Member or is already a Former Spouse Participant and are informed by the administrators of the Approved Arrangement that the transfer value consists wholly or partly of Pension Credit Rights in the former scheme or arrangement, then the Trustees must separately identify the transfer payment relating to the Pension Credit Rights or the part of the transfer payment relating to the Pension Credit Rights from other funds held for the benefit of the Member. Furthermore the Trustees must comply with the requirements of Rule 3(c) in respect of the transferred-in Pension Credit Rights. Then the individual will acquire the status of an Former Spouse Participant in the scheme in relation to his transferred-in Pension Credit Benefits.

#### **Part 6 - Benefits of Death**

### **17 Death of a Member**

- 17.1 On the death of a Member, any death benefits payable pursuant to Rules 9 and 12 shall become payable.
- 17.2 If after applying the provisions of Rule 9 in relation to death benefits the Member's Personal Account includes Relevant Uncrystallised Funds and the Member was under the age of 75 at the date of his death, the Trustees may 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 20.
- 17.3 Where following the death of a Member:
  - (a) after the application, where applicable, of Rules 9 and 17.2 the Member's Personal Account comprises (in whole or in part) Relevant Uncrystallised Funds; and
  - (b) the Member leaves one or more Dependants,

The Trustees shall, subject to Rule 17.4, apply such Relevant Uncrystallised Funds in the provision of such one or more Dependants' Scheme Pensions or Dependants' Annuities as the Trustees shall in their absolute discretion determine.

- 17.4 Where the Member leaves more than one Dependant the proportions in which a Member's Personal Account is applied for the benefit of the respective Dependants pursuant to Rule 17.3 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 17.3, 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 17.4, but shall otherwise have absolute discretion as to the terms on which any Dependants' Scheme Pensions or Dependants' Annuities are provided pursuant to Rule 17.3.

**17.5** Where the Member died before reaching age 75 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.

**17.6** Where:

- (a) a Member dies before having reached the age of 75; 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 an Unsecured 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 Unsecured Pension Fund in respect of the Arrangement immediately before payment is made as an Unsecured Pension Fund Lump Sum Death Benefit payable in accordance with Rule 20.

**17.7** Where:

- (a) following the death of a Member and after the application of Rule 17.6 if applicable there exists an Unsecured Pension Fund in respect of a Member; and
- (b) the Member leaves one or more Dependents,

The Trustees shall, subject to compliance with the Pension Rules and the Pension Death Benefit Rules apply funds equal to the relevant Unsecured Pension Fund in one or more of the ways specified in Rule 17.8.

**17.8** The ways specified in this Rule 17.8 are:

- (a) provision of one or more Dependents' Scheme Pensions;
- (b) provision of one or more Dependents' Annuities;
- (c) designation as available for payment of Dependant's Unsecured Pension (if the Dependant has not yet reached the age of 75) or Dependant's Alternatively Secured Pension (if the Dependant is aged 75 or over).

**17.9** Subject to compliance with the Pension Conditions and the Pension Death Benefit Rules, the Trustees:

- (a) may apply all or such part as they may determine of a Dependant's Unsecured Pension Fund for the purposes of providing a Dependents' Short-term Annuity or Dependents' Income Withdrawal; and
- (b) may apply all or such part as they may determine of a Dependant's Alternatively Secured Pension Fund for the purpose of providing Dependents' Income Withdrawal.

**17.10 Where:**

- (a) a Member dies having reached the age of 75 and leaves 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 Alternatively Secured Pension Fund as they in their discretion determine to the charity nominated by the Member (provided that nothing in this Rule 17.10 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 17.10 without the consent of the Professional Trustee.

**17.11 Where:**

- (a) a Member dies having reached the age of 75 and leaves no Dependants; and
- (b) the Member was entitled to Income Withdrawal in respect of an Arrangement under the Scheme at the date of his death,

The Trustees may (but shall not be obliged to) apply all or such part as they determine of the Member's Alternatively Secured Pension Fund in increasing the Personal Account of one or more other Members of the Scheme. In the event that the deceased Member nominated one or more Members for the purpose of this Rule 17.11, any Transfer Lump Sum Death Benefit may only be applied to the Personal Account of a Member nominated by the deceased Member. In the event that the deceased Member made no such nomination the Scheme Administrator may select which (if any) Members are to have their Personal Accounts increased pursuant to this Rule 17.11. Nothing in this Rule 17.11 shall oblige or entitle the Trustees to apply any funds in a manner which is inconsistent with the provisions of the FA 2004 relating to Transfer Lump Sum Death Benefits.

**18 Death of a Dependant**

**18.1 If:**

- (a) a Dependant of a deceased Member dies without having attained the age of 75; 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 shall, subject to compliance with the Lump Sum Death Benefit Rule, pay an amount representing the Dependant's Unsecured Pension Fund as an Unsecured Pension Fund Lump Sum Death Benefit. Such amount shall be dealt with in accordance with Rule 20.

**18.2 If:**

- (a) a Dependant of a deceased Member dies aged 75 or over;

- (b) there are no other Dependants of the member still living;
- (c) the Dependant was at the date of the Dependant's death entitled to Dependants' 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 Dependant's Alternatively Secured 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 18.2 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 18.2 without the consent of the Professional Trustee.

### **18.3 If:**

- (a) a Dependant of a deceased Member dies aged 75 or over;
- (b) there are no other Dependants of the Member still living; and
- (c) the Dependant was, at the date of the Dependant's death, entitled to Dependants' Income Withdrawal in respect of an Arrangement relating to the deceased Member,

The Trustees may (but shall not be obliged to) apply all or such part as they determine of the Member's Alternatively Secured Pension Fund in increasing the Personal Account of one or more other Members of the Scheme. In the event that the deceased Member or Dependant nominated one or more Members for the purposes of this Rule 18.3, any Transfer Lump Sum Death Benefit may only be applied to the Personal Account of a Member nominated by the deceased Member, or by the Dependant if the Dependant made such a nomination but the Member did not. In the event that neither the deceased Member nor the deceased Dependant made such a nomination, the Scheme Administrator may select which (if any) Members are to have their Personal Accounts increased pursuant to this Rule 18.3. Nothing in this Rule 18.3 shall oblige or entitle the Trustees to apply any funds in a manner which is inconsistent with the provisions of the FA 2004 relating to Transfer Lump Sum Death Benefits.

## **19 Death of a Former Spouse**

**19.1** On death of a Former Spouse after a Pension Sharing Order, agreement, or equivalent provision is made but before it is acted upon by the Trustees, the following applies:-

- (a) The Trustees may in their discretion pay from what would have been the Former Spouse's Personal Account ("the Notional Account") a lump sum death benefit of an amount they shall determine subject to it not resulting in an Unauthorised Payment and such amount will be held on trust in accordance with Rule 20.
- (b) The Trustees may in their discretion use the Notional Account to provide such pension (or pensions) to such surviving Dependant (or Dependants) of such annual amount (or amounts) as the Trustees on the advice of the Actuary shall notify to that

Member taking into account any part of the Notional Account used to provide the benefits paid under 19.1(a) above and subject to this not resulting in the Scheme making an Unauthorised Payment.

## **20 Payment of Death Benefits**

**20.1** Any benefit payable on the death of a Relevant Person and expressed to be held on trust in accordance with this Rule will be held by the Trustees on trust as follows:

- (a) Any benefits expressed to be held on trust in accordance with this Rule shall be held by the Trustees with power to be exercised within two years of the death of the Relevant Person to pay or apply the same or any part thereof to or for the maintenance or support or otherwise for the benefit of such one or more to the exclusion of the other or others of the Beneficiaries (as hereinafter defined) and the personal representatives of the Relevant Person in such proportions and manner as the Trustees shall in their absolute discretion without being liable to account for the exercise of such discretion think fit.
- (b) In exercising the power referred to in paragraph 20.1(a) of this Rule the Trustees may in their absolute discretion if they shall see fit to do so give effect to any expression of wish the Relevant Person has with the consent of the Trustees lodged with them in writing.
- (c) Those moneys or any part of them which the Trustees in their discretion decide not to dispose of under the power referred to in paragraph 20.1(a) of this Rule shall be paid to the personal representatives of the deceased Relevant Person.
- (d) In applying any moneys to or for the maintenance or support or otherwise for the benefit of any person under this Rule the Trustees shall be entitled to pay the same by way of settlement or otherwise to trustees for the benefit of such person and may delegate to such trustees any power or discretion which could be exercised by the Trustees under this Rule.
- (e) If any benefit which falls to be paid in accordance with this Rule would but for the provisions of this paragraph vest in the Crown the Duchy of Lancaster or the Duke of Cornwall as bona vacantia the Trustees shall continue to hold the same under the trusts of the Scheme to apply it to such of the purposes thereof as they shall decide.
- (f) For the purposes of this Rule "Beneficiaries" shall mean the following:

  - (i) the spouse of the Relevant Person or any ancestor or descendant (however remote the relationship) of the Relevant Person or of his spouse and the spouse of any such ancestor or descendant
  - (ii) any brother or sister of the Relevant Person or of his spouse (whether of the whole or the half blood) and any descendant of any such brother or sister and the spouse of any such brother or sister or of any such descendant of any such brother or sister
  - (iii) any stepbrother or stepsister of the Relevant Person or of his spouse and any descendant of any such stepbrother or stepsister and the spouse of any such



stepbrother or stepsister or of any such descendant of any such stepbrother or stepsister

- (iv) any uncle or aunt of the Relevant Person or of his spouse and any descendant of any such uncle or aunt and the spouse of any such uncle or aunt or of any such descendant of any such uncle or aunt

whether in any of the aforesaid cases 20.1(f)(i), 20.1(f)(ii), 20.1(f)(iii) and 20.1(f)(iv) the Relevant Person was or was not liable for or to contribute to their maintenance or support;

- (v) any natural person who in the opinion of the Trustees has been dependent or partly dependent on the Relevant Person for maintenance or support
- (vi) any other natural person who is entitled to any interest in the Relevant Person's estate under any testamentary disposition made by him in respect of which a grant of representation has been obtained
- (vii) any natural person (other than the persons aforesaid) who the Relevant Person wishes to be treated as a Beneficiary for the purposes of the Scheme and whose name and address the Relevant Person has notified to the Trustees in writing
- (viii) any charity, religious or philanthropic institution or club nominated in writing to the Trustees by the Relevant Person
- (ix) any person with whom the Trustees were aware that a friendship or relationship with the Relevant Person (other than marriage or dependency) existed at the date of the Relevant Person's death, such relationship not necessarily being one resembling marriage

For the purpose of this Rule:

- (A) "Spouse" includes the wife husband registered civil partner widow widower surviving registered civil partner and any former wife, husband or registered civil partner and a person with whom the Relevant Person or other beneficiary has gone through any lawful ceremony of marriage or lawful registration akin to a civil partnership
- (B) "Descendant" includes persons claiming by reason of adoption and stepchildren
- (C) The class of Beneficiaries shall be closed at the death of the Relevant Person except that it shall include persons then en ventre sa mere who if born would have been Beneficiaries

20.2 Without prejudice to the generality of the power described in sub-Rule 20.1 then so long as no-one other than the Beneficiaries listed from time to time in sub-Rule 20.1 above can become entitled the Trustees may:-

- (a) direct that all or part of the lump sum will be held by themselves or other trustees on such trusts (including discretionary trusts and trusts which are established after the

Relevant Person's death) and with such powers and provisions (including without prejudice to the generality of the foregoing powers of selection and variation and power to pay the expenses of the trust from the lump sum) as the Trustees see fit; or

(b) pay all or part of the lump sum to the trustees of any other existing trust.

- 20.3 The Trustees may determine that the costs of establishing any trust pursuant to Rule 20.2 may be met from the lump sum.

## **Part 7 - General**

### **21 Relevant Persons' Announcements**

At the date of joining the Scheme each Member (or in the case of a Former Spouse Participant, at the date on which a Pension Credit is implemented under the Scheme under Rule 3(c)) shall be provided with an Announcement setting out the essential features of the Scheme. The Trustees may from time to time issue further Announcements to any of the Relevant Persons to confirm the amendment of any or all of such features. No Announcement shall be used as a ground to contest any of the provisions of the Scheme as described in these Rules or any of the actual benefits payable from the Scheme in accordance with these Rules.

### **22 Statements of Personal Account**

From time to time in respect of all Relevant Persons and at any time at the request of a Relevant Person the Trustees shall so far as legislation requires and at any other time as they may determine on the advice of the Actuary provide statements of those Personal Accounts. However, no statement shall be used as a ground to contest the Trustees' power to determine and amend any Personal Account on the advice of the Actuary in accordance with these Rules.

### **23 Notice to Relevant Persons**

Any notice to be given hereunder to any Relevant Person or any person due or in receipt of benefits under the Scheme may be served by being handed to him personally or by being sent by recorded delivery first class post to him at his usual or last known address. Any notice served by post shall be deemed to have been served on the day (excluding Sundays and statutory holidays) next following the date of posting and in proving such service it shall be sufficient proof that the envelope containing the notice was properly addressed and posted as a prepaid letter by recorded delivery first class post.

### **24 Temporary Absence**

- 24.1 A Member who leaves work with a right to return following statutory maternity leave will remain in Pensionable Service during paid maternity absence as defined in Schedule 5 to the Social Security Act 1989 ("Paid Maternity Leave"), and during such period the benefits prospectively payable on the death of a Member before her Normal Retiring Date, and the contributions payable by the Employers during Pensionable Service during Paid Maternity Leave, are calculated as would have applied if the Member had worked normally and received the remuneration likely to be paid for doing so during Paid Maternity Leave.

If the Member does not rejoin the Scheme at the end of statutory maternity leave, Pensionable Service will cease at the date on which Paid Maternity Leave ended (or such earlier date from which the Member terminated service with her Employer) and the benefits to which such Member shall be entitled under the Scheme shall be determined in accordance with the provisions of Rule 10.

The provisions of this Rule 24.1 shall be overridden to any extent necessary to comply with the relevant requirements of the Employment Rights Act 1996.

The provisions of Rule 24.1 relating to the Paid Maternity Leave of a female Member (ignoring the provisions relating to statutory maternity pay) shall apply to any Member during and in respect of any period of absence from active service with the Employer for family reasons, and for which the Employer pays any contractual remuneration.

**24.2** If a Member is temporarily absent from service with his Employer (except where Rule 24.1 applies) or is seconded to another employer the Member may at the discretion of the Trustees be deemed for the purposes of these Rules to remain in service with the Employer provided this will not prejudice Registration or result in the Scheme making or being treated as having made an Unauthorised Payment.

**24.3** During such period of temporary absence other than one prejudicial to the approval of the Scheme under sub-Rule 24.2 the Trustees may treat service as continuous and if they do so the Employer employing the Member may elect to continue to pay for such period or periods as it may from time to time decide contributions calculated as though such Member had continued in service at the salary applicable immediately prior to such suspension and in such event any period or periods in respect of which contributions are thus paid shall be deemed to be Pensionable Service.

## **25 Cessation of Pensionable Service**

A Member who ceases to be in Pensionable Service shall where applicable cease to be required to contribute to the Scheme under Rule 4. Any benefits to which the Member or any other person deriving benefit under or through him may be entitled in respect of Pensionable Service already completed will be maintained by the Trustees and will be payable subject to the Rules according to the event which happens and in any event the Trustees shall comply with the preservation requirements of the 1993 Act and any regulations made thereunder.

## **26 Taxation**

**26.1** The Trustees may deduct from any payment under the Scheme or from any relevant Personal Account or from any part of the Fund not allocated to a Personal Account 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 Rule 26, a Personal Account is a relevant Personal Account if the tax or charge arises in connection with a Member or former Member or Former Spouse to whom the Personal Account relates or related.

**26.2** Without prejudice to the generality of Rule 26.1, the Trustees may in exercising their powers under this Rule 26 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; and
- (g) a scheme sanction charge pursuant to section 239 of the FA 2004.

## **27 Assignment of Benefits**

Except where otherwise provided in the Trust Deed and the Rules, or in accordance with the provisions of the 1999 Act on divorce, no benefit arising under the Scheme shall be capable of being assigned or applied for the benefit of anyone other than the person entitled, or prospectively or contingently entitled to it, and

- (a) every assignment of, or charge on, any such benefit and any agreement to assign or charge it shall be void, and
- (b) on the bankruptcy of any such person, the benefit shall not pass to any trustee or other person acting on behalf of the creditors of the person entitled.

Any benefits which the Relevant Person may otherwise expect to receive under these Rules shall determine upon any attempted assignment by operation of law (other than in relation to the provisions of the 1999 Act on divorce), but the Trustees may then apply an amount equal to such benefits for the benefit of the Relevant Person or his Dependents in such shares and proportions as they think fit.

## **28 Forfeiture of Benefits**

If a Member leaves Service under a monetary obligation to the Employer arising out of the fraud negligence or any other unlawful act or omission of such person to the Employer then the benefits payable to such Member exclusive of any benefits to which he is entitled by reason of a transfer payment to the Scheme and exclusive of any benefits to which he is entitled in respect of services after the said obligation is established may be reduced by an amount which does not exceed that certified by the Trustees on the advice of the Actuary as being equivalent in value to the said obligation subject to the following:-

- (a) the Member shall be given a certificate showing both the amount so recovered and the effects of such recovery on his benefits
- (b) in the event of dispute as to the amount so recoverable such reduction shall only be made after the obligation has become enforceable under the order of a competent Court or the award of an arbitrator or in Scotland an arbiter to be appointed (falling agreement between the parties) by the Sheriff. The Personal Account will be reduced for the purposes of these Rules by any sum deducted under the terms of this Rule.

**29 Incapacity of a Beneficiary**

If the Trustees consider that a person entitled to a pension under the Scheme is suffering from physical or mental incapacity or if the person is under the age of 18 years the Trustees may at their discretion pay or direct the payment of such pension to any relative of his or other person on his behalf without being concerned to see to the application thereof and the receipt of such relative or other person shall be a complete discharge to the Trustees for such payment.

**30 Evidence to Trustees**

**30.1** The Trustees shall prior to the payment of any benefit from the Scheme require such evidence in respect of birth or death or marriage or such other facts concerning the Relevant Person or the person (or persons) to whom benefits are payable as a result of his membership of the Scheme as the Trustees consider necessary and in such form as they think fit. However, if the Trustees discover any mis-statement as to any of the matters referred to in this Rule they shall have power to make such arrangements on the advice of the Actuary as they shall consider fair by way of adjustment of any benefits payable out of the Scheme.

**30.2** Every person entitled under these Rules to a pension or annuity shall give notice in writing to the Trustees of his place of residence at the time such benefit becomes payable and shall immediately inform the Trustees of any change in place of residence.

**Part 8 – Winding-Up**

**31 Events Leading to Partial Winding-Up**

**31.1** If any of the events described in sub-Rule 31.2 occur the participation in the Scheme of an Employer other than the Principal Employer will cease and the relevant part of the Fund determined by the Trustees as appropriate to such Employer will be applied in accordance with Rule 33 unless the Trustees make arrangements to their satisfaction in accordance with sub-Rule 31.3.

**31.2** The events referred to in sub-Rule 31.1 are:-

- (a) If such Employer goes into liquidation or is wound up or dissolved
- (b) if such Employer, at any time by notice in writing to the Trustees, terminates its liability to contribute to the Scheme
- (c) if such Employer at any time fails to observe or perform any of its obligations under the Scheme and the Trustees thereupon give notice in writing to such Employer of their intention to terminate its participation in the Scheme
- (d) If the Trustees give notice in writing to such Employer that its continued participation in the Scheme would prejudice Registration

**31.3** The Trustees may make any of the following arrangements consistent with Registration:

- (a) In the case of paragraph 31.2(a) of sub-Rule 31.2 arrangements with any employer which succeeds to the business of the Employer for such employer to undertake the duties of the Employer under the Scheme
- (b) in the case of paragraphs 31.2(a), 31.2(b), 31.2(c) or 31.2(d) of sub-Rule 31.2 if the Trustees so decide, and subject to Registration not thereby being prejudiced, the relevant part of the Fund may continue to be held by the Trustees upon and subject to the trusts powers and provisions of the Scheme and the part thereof will be administered as a closed fund (but without any liability on the Employer to contribute thereto) until such date not later than the date of the determination of the Scheme as the Trustees may determine.

### **32 Events Leading to Complete Winding-Up**

**32.1** If any of the events described in sub-Rule 32.2 occur the Scheme shall be determined and wound up in accordance with Rule 33 unless the Trustees make arrangements to their satisfaction to continue the Scheme in accordance with sub-Rule 32.3.

**32.2** The events referred to in sub-Rule 32.1 are:-

- (a) if the Principal Employer goes into liquidation or is wound-up or dissolved
- (b) if the Principal Employer, at any time by notice in writing to the Trustees, terminates its liability to contribute to the Scheme
- (c) if the Principal Employer at any time fails to observe or perform any of its obligations under the Scheme and the Trustees thereupon give notice in writing to the Principal Employer of their intention to wind up the Scheme
- (d) if the Trustees decide in their absolute discretion that it is expedient to wind up the Scheme

**32.3** Where paragraphs 32.2(a), 32.2(b) or 32.2(c) of sub-Rule 32.2 apply, the Trustees may make any of the following arrangements consistent with Registration for the continuation of the Scheme:

- (a) arrangements with any employer or firm to undertake the duties of the Principal Employer under the Scheme in accordance with clause 17 of the Trust Deed, or
- (b) if the Trustees so decide, and subject to Registration not thereby being prejudiced, the Fund may continue to be held by the Trustees upon and subject to the trusts powers and provisions of the Scheme and the Scheme will be administered as a closed fund (but without any liability on any Employer to contribute thereto) until such date as the Trustees may determine.

### **33 Winding-Up**

**33.1** In the event of the Scheme or part thereof being determined in accordance with the provisions of Rules 31 and 32:-

- (a) the Trustees will notify each Relevant Person affected thereby, and

- (b) the Fund will be applied, after the payment of any fees or expenses of or incidental to the administration and management and winding-up of the Scheme which cannot be recovered from the Employers, for the benefit of the Relevant Persons, by reference to each Personal Account; and
  - (c) if any assets remain in the Fund which do not form part of the Relevant Persons' Personal Accounts, the Trustees shall use them as they shall determine to increase all or any of the benefits or provide additional benefits for Relevant Persons or other persons consistent with Registration. Any assets which are not used to provide such benefits will be paid to the Employers in such proportions as the Trustees consider appropriate, subject to this constituting an authorised surplus payment within the meaning of section 177 of the FA 2004 and the deduction of any tax payable.
- 33.2** Subject to Rule 33.3 the benefits to be secured under sub-Rule 33.1 shall be secured by the Trustees in any one or more of the following ways:-
- (a) by the purchase of non-assignable annuity contracts from an Authorised Insurer such contracts to include such options consistent with Registration and corresponding to options under the Scheme as may be agreed between the Trustees and the Authorised Insurer
  - (b) subject to the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991, by the transfer (after prior consultation with HMRC if it so requires in the case of a bulk transfer) of all or any (as appropriate) of the assets of the Fund to one or more Receiving Schemes, subject to the conditions of Rule 15 (for the avoidance of doubt, a benefit in payment may be transferred), to provide benefits in substitution for the benefits described in sub-Rule 33.1(b); any such transfer may include the transfer of any surplus under sub-Rule 33.1(c), notwithstanding that such surplus may be allocated at the discretion of the Trustees of the Receiving Scheme to provide benefits in respect of the transferring Relevant Persons or not as the case may be.
  - (c) in relation to any contracts or policies with any Authorised Insurer in the Fund at the date of winding-up :-
    - (i) by arranging with the Authorised Insurer to transfer the contracts or policies to the person whose benefits are covered under it. The contracts or policies will contain the same restrictions as in sub-Rule 33.2(a)
    - (ii) by assigning any of the contracts or policies which have not matured to the trustees of any Receiving Scheme under sub-Rule 33.2(b) subject to the Trustees complying with the same requirements of Rule 15.
- 33.3** 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 Member's entitlement to benefits under the Scheme, and in the case of a Winding-up Lump Sum Death Benefit, extinguish the dependent's entitlement under the Scheme to pension death benefit and lump sum death benefit in respect of the Member.
- 33.4** The Fund or part thereof being applied in accordance with the provisions of this Rule shall be held by the Trustees upon and subject to the trusts powers and provisions of the Scheme