

The James Hay Personal Pension Plan

Trust Deed & Rules

2019 Edition



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The James Hay Personal Pension Plan

Trust Deed

This **Trust Deed** is made the 4th day of *APRIL* 2019
between

- (1) **James Hay Services Limited** a company incorporated in Jersey as company number 77318 and having its registered office at 2nd Floor, Gaspé House, 66-72 Esplanade, St Helier, Jersey, JE1 1GH ("the Provider");
- (2) **James Hay Pension Trustees Limited** a company incorporated in England as company number 1435887 and having its registered office at Dunn's House, St Paul's Road, Salisbury, Wiltshire, SP2 7BF ("the Professional Trustee"); and
- (3) **James Hay Administration Company Limited** a company incorporated in England as company number 4068398 and having its registered office at Dunn's House, St Paul's Road, Salisbury, Wiltshire, SP2 7BF ("the Scheme Administrator").

WHEREAS

- (A) By a Declaration of Trust dated 15 November 1995 the Professional Trustee in its then roles of provider, trustee and scheme administrator established the James Hay Personal Pension Plan ("the Scheme") on irrevocable trusts.
- (B) The Scheme is presently governed by a revised version of that Declaration of Trust set out in a Deed of Amendment dated 25 August 2011 and the Rules that are annexed to it, each as subsequently amended.
- (C) With effect from 6 April 2006, the Scheme is a registered pension scheme for the purposes of Part 4 of the Finance Act by virtue of the operation of paragraph 1(1) of Schedule 36 to that Act. It was formerly an approved personal pension scheme under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.
- (D) The Scheme was between 1 October 2008 and 5 April 2012 an appropriate personal pension scheme within the meaning of the Pension Schemes Act 1993, although it did not accept minimum contributions under that Act.
- (E) The parties to this Deed wish to replace the Deed of Amendment dated 25 August 2011 and the annexed Rules (as amended) with the provisions set out in this Deed and in the revised Rules annexed hereto. The provisions of this deed take effect on 6 April 2015 save for changes made to the duties, powers and responsibilities of the Provider, which take effect from 1 April 2019.

NOW THIS DEED WITNESSES AS FOLLOWS

1. Interpretation and Definitions

- 1.1 In the Deed and in the Rules, unless there is something inconsistent in the subject matter or the context:-

- 1.1.1 the definitions set out in the Deed and in the Rules (most of which are included in Clause 1.3 or in Rule 2) shall have effect;
 - 1.1.2 references to the Provider, the Professional Trustee or the Scheme Administrator include (if applicable) their respective successors and predecessors;
 - 1.1.3 words denoting one gender include all other genders and words denoting the singular include the plural and vice versa;
 - 1.1.4 any reference to a man or a woman includes a man or a woman (respectively) who has become such by reason of having obtained a full gender recognition certificate under the Gender Recognition Act 2004;
 - 1.1.5 any direct or indirect reference to marriage includes any relationship between persons of the same sex which is recognised as marriage by the law of any part of the United Kingdom;
 - 1.1.6 any reference to a statutory provision includes regulations or codes made under it, and includes a reference to that provision as amended, modified, replaced, consolidated or re-enacted at any time in the past or the future;
 - 1.1.7 any reference to a statutory provision enacted in respect of any part of the United Kingdom which does not extend to any other part of the United Kingdom includes any corresponding legislation in respect of that other part;
 - 1.1.8 each reference to a Rule or to a Clause is a reference to a Rule of the Rules or to a Clause of the Deed, in either case as modified from time to time;
 - 1.1.9 the headings and marginal notes to the Deed and the Rules are intended for convenience of reference and shall not affect any interpretation of them;
 - 1.1.10 except to any extent to which it might give rise to an Unauthorised Payment a person is deemed to attain any particular age at the beginning of the relevant birthday; and
 - 1.1.11 the meaning of general words shall not be restricted by any particular examples before or after those general words.
- 1.2 The Deed and the Rules shall be read and interpreted together so that:-
- 1.2.1 definitions have the same meanings in both documents; and
 - 1.2.2 the provisions of Rule 2 of the Rules apply to the Deed as well as to the Rules.
- 1.3 In the Deed and the Rules, except where this would give rise to inconsistencies, the following words and phrases have the meanings given below:-
- 1.3.1 "1993 Act" means the Pension Schemes Act 1993;
 - 1.3.2 "1995 Act" means the Pensions Act 1995;
 - 1.3.3 "2004 Act" means the Pensions Act 2004;
 - 1.3.4 "2008 Act" means the Pensions Act 2008;
 - 1.3.5 "Application" means an application form prescribed by the Scheme Administrator for the purposes of Clause 4 and for the avoidance of doubt this may be entered into electronically, via the internet or by means of any other form of communication;

- 1.3.6 "Arrangement" means a Member's or Survivor's money purchase arrangement under the Scheme as defined for the purposes of section 152 of the Finance Act, issued or accepted as an Arrangement by the Provider (prior to 1 April 2019) or Scheme Administrator in the ways described at Clause 4 and taking the form described in the Rules (particularly Part 3 of the Rules) and in other Scheme Documents including the current Terms and Conditions;
- 1.3.7 "Auto-Enrolment Legislation" means Part 1 of the 2008 Act (and regulations under it including the Occupational and Personal Pension Scheme (Automatic Enrolment) Regulations 2010);
- 1.3.8 "Co-trustees" means the Professional Trustee and the Co-trustee Member acting together in relation to any Co-trustee SIPP. It includes any additional trustee appointed in relation to the Co-trustee SIPP and the Professional Trustee acting on its own during any period when it is the sole trustee of the Co-trustee SIPP;
- 1.3.9 "Co-trustee Member" means a Member who has entered into a Supplemental Deed;
- 1.3.10 "Co-trustee SIPP" means those Arrangements which are at the relevant time included within the scope of a Supplemental Deed which has one or more Co-trustees;
- 1.3.11 "Deed" means this deed, as amended from time to time;
- 1.3.12 "Directly-Held Policy" means a policy of assurance issued direct by an Insurer to a Member of the Scheme (or to a member of another Registered Pension Scheme where benefit entitlements of that member or of a Survivor in respect of that member have been transferred into the Scheme) in order to secure benefits under the Scheme for or in respect of a Member and/or for one or more Survivors under the Scheme which has at the sole discretion of the Scheme Administrator been accepted to form an Arrangement or part of an Arrangement (and held within a corresponding Member's or Survivor's Fund) under the Scheme. A Directly-Held Policy shall be subject to the Rules and the Trust Deed including any Supplemental Deed;
- 1.3.13 "Finance Act" means the Finance Act 2004;
- 1.3.14 "Fund" means a Member's Fund or a Survivor's Fund;
- 1.3.15 "Legal Guardian" means a person whom the Scheme Administrator reasonably believes to have the legal authority (and the corresponding duty) to care for the personal and property interests of another person who is not of full capacity for any reason relating to that person's age or personal circumstances other than bankruptcy or insolvency;
- 1.3.16 "Member" means a person who has been accepted as a Member of the Scheme by the Scheme Administrator under Clause 4. In respect of any particular Arrangement a Member may also be a "Co-trustee SIPP Member" where the Arrangement is within a Co-trustee SIPP;
- 1.3.17 "Membership" means a Member's membership of the Scheme;
- 1.3.18 "Professional Trustee" means James Hay Pension Trustees Limited and its successors as Professional Trustee as described in Clause 3;
- 1.3.19 "Provider" means James Hay Services Limited and any successor for the time being as provider of the Scheme, in accordance with Clause 3;

- 1.3.20 "Rules" means the Rules of the Scheme, including where appropriate all former Rules of the Scheme and the provisions of any Schedule or Appendix to the Rules (whether or not referred to directly by the Rules themselves) as amended from time to time;
- 1.3.21 "Scheme" means the pension scheme that is governed by this Deed and known as the James Hay Personal Pension Plan;
- 1.3.22 "Scheme Administrator" means James Hay Administration Company Limited and its successors as Scheme Administrator of the Scheme for the purposes of the Finance Act from time to time appointed under Clause 3;
- 1.3.23 "Supplemental Deed" means a deed in a form determined by the Scheme Administrator and which declares one or more Arrangements under the Scheme to be included in a Co-trustee SIPP as described in Clause 4;
- 1.3.24 "Survivor" means in relation to a deceased Member any Dependant, Nominee or Successor of that Member, as defined in the Rules; and
- 1.3.25 "Terms and Conditions" means the Terms and Conditions of the James Hay Personal Pension Plan as modified from time to time, and in its application to any particular Member or Survivor is a reference to those parts of the Terms and Conditions that apply to him or her and the specific Arrangements that have been issued to him or her.

2. Constitution of the Scheme

- 2.1 The Provider hereby confirms the establishment of the Scheme under irrevocable trust on 15 November 1995 by the Professional Trustee in its then roles of provider, trustee and scheme administrator for the purpose of providing benefits to or in respect of persons:-
- on retirement;
 - on death;
 - on having reached a particular age;
 - on the onset of serious ill-health or incapacity; or
 - in similar circumstances,
- as described in this Deed and the Rules.
- 2.2 This Deed and the Rules which are annexed to it shall respectively replace the existing Deed of Amendment dated 25 August 2011 and the Rules annexed to it (each as amended from time to time). The provisions of this deed take effect on 6 April 2015 save for changes made to the duties, powers and responsibilities of the Provider, which take effect from 1 April 2019.
- 2.3 With effect from 6 April 2006, the Scheme is a registered pension scheme for the purposes of Part 4 of the Finance Act by virtue of the operation of paragraph 1(1) of Schedule 36 to that Act. The Scheme was formerly an approved personal pension scheme under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988.
- 2.4 The Scheme Administrator and Professional Trustee shall execute such documents, provide such undertakings or take whatever action as may from time to time be required under the provisions of the Finance Act 2004 in order to maintain the Scheme as a registered pension scheme.

- 2.5 The Scheme is established on irrevocable trusts as described in this Deed and Members' and Survivors' Funds held by the Professional Trustee or by Co-trustees for the purposes of the Scheme will be held on such trusts for the benefit of the relevant individuals under the Rules.
- 2.6 Each Member's or Survivor's Fund shall (except in the case of any Directly-Held Policy) be held as a separate trust fund distinct from the other Members' or Survivors' Funds under the Scheme. The assets of and any liabilities associated with any Member's or Survivor's Fund (including those comprised within any Directly-Held Policy) shall be entirely separate from the assets of and any liabilities associated with any other Member's or Survivor's Fund and assets held under one Member's or Survivor's Fund shall not be used for the purposes of any other Member's or Survivor's Fund. If the same investment is held by more than one Member's or Survivor's Fund then the entitlement of each Member or Survivor in it shall be separately identified and recorded for this and other purposes.

3. Operation and Management of the Scheme

3.1 Registered Pension Scheme Requirements

- 3.1.1 None of the terms of the Scheme shall have the effect of contravening any requirement for registration of the Scheme under Part 4 of the Finance Act, and any requirement for such registration not specifically set out in the Deed and the Rules shall be deemed to have been incorporated in those documents.
- 3.1.2 Members' interests in the Scheme and its benefits shall be governed by the Deed and the Rules. However, options under the Deed and the Rules shall only be available in respect of any particular Arrangement if the terms of that Arrangement so permit.
- 3.1.3 The Rules override any conflicting provisions in any part of the Deed. The Rules also override and govern each Arrangement.
- 3.1.4 No part of the capital or income of the assets of the Scheme may be paid to any person by way of an Unauthorised Payment or in any way which is not expressly permitted by this Deed, the Rules, the Finance Act and any other relevant legislation unless the Scheme Administrator specifically so decides in its absolute discretion as described in the Rules.

3.2 Roles of the Parties

- 3.2.1 The operation and management of the Scheme shall be vested in the Scheme Administrator as described in this Deed, the Rules, any Supplemental Deed and other applicable Scheme Documents.
- 3.2.2 In carrying out their respective duties under this Trust Deed, the Rules, any Supplemental Deed and any other Scheme Document, any corporate body which is the Provider, the Scheme Administrator, the Professional Trustee or any Co-trustee shall act through any of its directors or an officer, employee, committee or person appointed for this purpose in accordance with its own constitutional provisions and this shall (for the avoidance of doubt) constitute the personal act of the Provider, the Scheme Administrator, the Professional Trustee or the Co-trustee.
- 3.2.3 The Scheme Administrator, the Professional Trustee and any Co-trustees or all or any of them, shall execute such documents and do whatever is necessary to give effect to any appointment, removal, resignation or other transaction under this Clause 3.

3.3 The provider:-

3.3.1 named at the start of this Deed is the Provider as at the date of this Trust Deed.

3.3.2 may by deed retire at any time as the Scheme's provider.

3.3.3 If there is no Provider then the Scheme Administrator shall assume the powers and responsibilities of the Provider under this Deed or otherwise in relation to the Scheme unless or until such time as it at its discretion appoints a new Provider by deed.

3.4 The Scheme Administrator

3.4.1 The Scheme Administrator named at the start of this Deed is currently the Scheme Administrator of the Scheme.

3.4.2 The Scheme Administrator may by deed retire at any time as the Scheme Administrator.

3.4.3 The Scheme Administrator may at any time by deed remove the Provider or Professional Trustee from office; or appoint a replacement Provider or an additional or replacement Professional Trustee, which may be (in either case) an individual, a firm or a corporate body.

3.4.4 There shall be a Scheme Administrator of the Scheme at all times.

3.5 The Professional Trustee

3.5.1 The professional trustee named at the start of this Deed is the current Professional Trustee. The Professional Trustee must at all times be a person who is not prohibited from acting as a trustee under the 1995 Act.

3.5.2 The Professional Trustee may resign at any time by deed after giving the Scheme Administrator 28 days' prior written notice.

4. Membership and Members' Arrangements

4.1 Matters relating to eligibility to join the Scheme shall be decided by the Scheme Administrator. The Scheme Administrator may, at any time, adopt new eligibility requirements or conditions even if they have the effect of closing the Scheme.

4.2 The Scheme Administrator shall not be obliged to allow any person to become a Member or to issue an Arrangement to any person, and shall not be obliged to give reasons for refusing Membership or the issue of any Arrangement in this way. The Scheme Administrator shall also have the power to refuse receipt of future contributions in relation to any existing Member.

4.3 Subject to Clauses 4.1 and 4.2 and to Rules 3.1 to 3.5, the Scheme Administrator may at its discretion admit any individual as a Member (or as the case may be a Survivor) of the Scheme who is eligible to join and who:-

- (in the case of a Member) has completed an Application and satisfied the joining procedure under Rules 3.1 and 3.2;
- (in the case of a Member) satisfies any agreed joining procedure under Rule 3.3 in relation to his or her entry to the Scheme pursuant to or in respect of any aspect of the Auto-Enrolment Legislation; or

- (in the case of a Member or Survivor) satisfies any joining procedure specified for this purpose under Rule 11.2 including for the avoidance of doubt any such procedure which does not require the Member's or Survivor's consent.
- 4.4 These joining procedures can at the discretion of the Scheme Administrator be satisfied in any way that is legally binding including via the internet or any other form of communication.
- 4.5 Subject to Clause 4.9, each individual who becomes a Member or Survivor shall be bound by (and his or her Arrangements under the Scheme shall be further defined by) the Terms and Conditions as updated from time to time.
- 4.6 Contributions made to the Scheme, and transfer payments received by it, in respect of each Member shall be allocated by the Scheme Administrator to the Member's Arrangements in accordance with the terms of those Arrangements and the Rules.
- 4.7 Subject to Clauses 8 to 11 and any other applicable provision of this Deed or the Rules, no person may withdraw any money or assets from the Scheme other than in the form of benefits under the Arrangements comprised within the Scheme as described in this Deed, the Rules and any applicable Supplemental Deed.
- 4.8 The option described in the Rules under which a Member's Fund may have two parts, one of which is used for the provision of pension by way of Member's Drawdown Pension, shall apply only to Arrangements which document the availability of that option. In the absence of this option, no Arrangement shall be capable of partial designation by the Member in this way.
- 4.9 All Arrangements issued or held under the Scheme (including any consisting in whole or in part of Directly-Held Policies) shall as further described in the Rules be so issued or held subject to:-
- (a) overriding laws;
 - (b) the Rules;
 - (c) the Trust Deed including any Supplemental Deed;
 - (d) applicable provisions of the Terms and Conditions,
- and accordingly also to all relevant powers of the Scheme Administrator and (where applicable) the Professional Trustee or any Co-trustees under them. In the event of any inconsistency as between the requirements listed in paragraphs (a) to (d) above, earlier paragraphs shall take precedence over later paragraphs.
- 4.10 Establishment of a Co-trustee SIPP by Supplemental Deed
- The Scheme Administrator may also allow any Member who has joined in accordance with the preceding provisions of this Clause 4 to execute a Supplemental Deed in order to establish a Co-trustee SIPP subject to the following provisions.
- 4.10.1 The Professional Trustee and any additional trustee or trustees specified in the Supplemental Deed shall together be the Co-trustees and Arrangements under the Co-trustee SIPP shall be held by them under irrevocable trust.
- 4.10.2 The additional trustees appointed in respect of the Arrangements of any Co-trustee SIPP Member shall be trustees jointly with the Professional Trustee solely for the purposes of the relevant Co-trustee SIPP. All powers, discretions, controls and constraints included in this Deed and the Rules in relation to investment and other

matters shall be deemed unless the contrary is expressly stated, to apply equally to the terms of the Supplemental Deed.

4.11 Appointment and Removal of Co-trustees

Subject to any contrary provisions agreed by the Scheme Administrator in the Supplemental Deed:-

4.11.1 The initial Co-trustees shall be appointed by the Supplemental Deed and (subject to the provisions of this Deed including Clause 4.11.5) may be appointed or removed in accordance with its terms.

4.11.2 Ordinarily, the Co-trustees of any Co-trustee SIPP shall be the Professional Trustee and the relevant Member.

4.11.3 In the case of a Member who lacks full capacity when the Supplemental Deed is executed a Legal Guardian shall execute it on his or her behalf and that Legal Guardian shall be a Co-trustee in place of and for the benefit of the Member until the Member attains full capacity, at which time the Scheme Administrator shall appoint the Member as a Co-trustee in place of the Legal Guardian.

4.11.4 During any period when a Co-trustee is an undischarged bankrupt or otherwise disqualified from acting as a trustee or incapable of managing his or her own affairs then unless there is an additional trustee under the Supplemental Deed the Professional Trustee shall be the sole trustee of the Co-trustee SIPP.

4.11.5 The Scheme Administrator shall have the power at any time by written notice to remove any Co-trustee other than the Professional Trustee from his or her trusteeship of the relevant Arrangement or Arrangements under the Co-trustee SIPP. Any such notice shall take effect immediately it is given and in that event:-

- the Co-trustee shall immediately cease to be a trustee in respect of the relevant Arrangement or Arrangements;
- the Co-trustee shall forthwith complete such additional documentation as may be required in order to vest the relevant Arrangement or Arrangements in the Professional Trustee;
- the Supplemental Deed shall continue to have effect; however
- the Professional Trustee shall be sole trustee in respect of the relevant Arrangement or Arrangements unless or until such time as the Scheme Administrator at its sole discretion by notice may re-appoint the Co-trustee in respect of the Arrangement or Arrangements,

and (for the avoidance of doubt) the costs of all such changes shall be an expense of the relevant Arrangement or Arrangements.

4.12 Decision Making by Co-trustees

4.12.1 Any Co-trustees shall together implement the decisions reached on any matter by the relevant Member and the Scheme Administrator or, where applicable, by the Co-trustees, whether or not the decision was reached unanimously.

4.12.2 Co-trustees shall ordinarily conduct all business in respect of the relevant Co-trustee SIPP by the exchange of written or verbal communications and need not and shall not hold meetings unless the Scheme Administrator agrees that a meeting is necessary.

- 4.12.3 A resolution in writing signed by all Co-trustees in respect of any particular Co-trustee SIPP shall be as valid and effective as if it had been passed at a meeting of the Co-trustees duly convened and held and any such resolution may consist of one or more documents in similar form each signed by one or more of the Co-trustees.

5. Ownership and Control of Scheme Assets

- 5.1 Subject to any direction to the contrary produced by the Scheme Administrator and to the other provisions of this Deed all assets of the Scheme other than any Directly-Held Policy shall be vested and (where appropriate) registered in the name of:

- 5.1.1 (in the case of assets held under any Fund forming part of a Co-trustee SIPP) either the Professional Trustee or the relevant Co-trustees as described in Clause 5.2;
- 5.1.2 (in the case of any other assets forming part of a Fund) the Professional Trustee as trustee of that Fund; or
- 5.1.3 (in the case of any other assets of the Scheme that are not comprised in Funds) the Professional Trustee,

with such designation in respect of the relevant Member or Survivor as the Scheme Administrator may in its discretion determine to be appropriate.

- 5.2 Subject to the provisions of Clauses 4, 6 and 7 the assets held under any Fund forming part of a Co-trustee SIPP shall be held under the legal control of the Professional Trustee as trustee of the relevant Fund except to any extent to which they are specifically placed under the control of the Co-trustees.

- 5.3 The Professional Trustee and any Co-trustees are each nevertheless empowered to place any asset of the Scheme that would otherwise be vested or registered in their names into the name of any person, firm, corporation or other body as their nominee, custodian or sub-custodian. In the case of a Co-trustee Member, this power is subject to the consent of the Professional Trustee.

- 5.4 The Professional Trustee's only duty and power is to own the assets of the Scheme. It shall only act or exercise its powers and discretions in relation to the Scheme at the order of the Scheme Administrator and accordingly:-

- references to the Professional Trustee (which was previously referred to as "the Trustee") in this Deed, the Rules and any Supplemental Deed (whenever executed) shall mean "the Professional Trustee (acting only to the order of the Scheme Administrator)";
- where the Professional Trustee acts as a Co-trustee it shall also (however clearly it may appear to have a wider role) act only to the order of the Scheme Administrator; and
- the Scheme Administrator shall, for the avoidance of doubt, also have the benefit of all powers, entitlements, privileges and exemptions vested in the Professional Trustee that are necessary or desirable in order for it so to direct the Professional Trustee,

and any third party transacting or dealing with the Professional Trustee shall be entitled to assume and to act upon the assumption that the Professional Trustee is acting to the order of the Scheme Administrator.

6. Bank Accounts

6.1 The Scheme Administrator may instruct the Professional Trustee to open one or more bank accounts (each such account being the "Group Account") with such bank or banks as it may decide and on such terms and at such tariff as it shall agree with the bank. Unless Clause 6.2 applies, all cash held within every Arrangement shall be held in the Group Account and:-

- unless the Scheme Administrator agrees otherwise, the account shall be in the Professional Trustee's name only and the sole signatory to that account shall be the Professional Trustee even where the Arrangement forms part of a Co-trustee SIPP; and
- the Scheme Administrator may specify the proportion or amount of the value comprised in any Arrangement is to be retained in the Group Account.

6.2 The Scheme Administrator may instead at its discretion instruct the Professional Trustee or permit any Co-trustees (or non-Co-trustee Members) to open one or more bank accounts for any Arrangements with such bank as the Member or Survivor requests and:-

- unless the Scheme Administrator agrees otherwise, the account shall be in the Professional Trustee's name only and the sole signatory to that account shall be the Professional Trustee even where the Arrangement forms part of a Co-trustee SIPP; and
- the Scheme Administrator may specify the proportion or amount of the value comprised in any Arrangement is to be retained in that account.

7. Investments and Borrowing

7.1 The Scheme Administrator, the Professional Trustee and any Co-trustees shall in carrying out their duties under the Scheme have the same powers to invest or otherwise apply the assets of the Scheme and to sell, convert, transpose, charge and vary such investments in any manner which they could do if they were absolutely and beneficially entitled to them.

7.2 Without prejudice to the general power set out in Clause 7.1:-

- 7.2.1 investments may be made or held whether or not they are income-producing or involve the assumption of liability and may include derivative contracts including swaps, foreign exchange contracts, futures, options or contracts for differences, securities lending and any other similar arrangements;
- 7.2.2 the power to invest includes a power to lend within the terms permitted under the Finance Act, if permitted by the Scheme Administrator and with the written consent of the Member or Survivor concerned; no loan may be made to the Member or Survivor or to any person connected with the Member or Survivor as defined for the purposes of section 993 of the Income Tax Act 2007; and
- 7.2.3 the Scheme Administrator, the Professional Trustee and any Co-trustees may in connection with any investment to be made, held or sold give undertakings, indemnities or guarantees, may exercise their powers of delegation without limitation and may provide security or collateral.

7.3 Subject to the restrictions set out in Clause 7.7:-

- 7.3.1 if and to the extent that the Scheme Administrator so permits at its absolute discretion, the Member or Survivor and any Investment Manager or other adviser

appointed by him or her for this purpose with the agreement of the Scheme Administrator shall have power to direct how the assets allocated to his or her Arrangement shall be invested, and to instruct the Scheme Administrator to sell, convert, transpose and vary those investments on behalf of the Professional Trustee or any Co-trustees; and

7.3.2 whether or not it has been requested by the Member or Survivor it shall otherwise be at the discretion of the Scheme Administrator whether any particular investment is in fact made, sold, converted, transposed or varied, so that the Scheme Administrator and the Professional Trustee or any Co-trustees accordingly have power to sell any asset contrary to any instruction received from or on behalf of the Member or Survivor and may refuse to implement any instruction received from or on behalf of him or her as the Scheme Administrator sees fit.

7.4 The Scheme Administrator, the Professional Trustee and any Co-trustees shall not unreasonably delay or withhold any necessary actions or consents to any operations that are necessary in order to carry out the Member's or Survivor's instructions or requests under Clause 7.3. However:-

7.4.1 the Member or Survivor must request or instruct the Scheme Administrator in writing, in a form acceptable to it, as to the terms on which or specific assets in which his or her Member's or Survivor's Funds are to be invested;

7.4.2 the Scheme Administrator, the Professional Trustee and any Co-trustees shall not be required to any extent or in any particular way to invest the assets of any Arrangement, Co-trustee SIPP or of the Scheme as a whole other than through their implementation of any such request or instruction that can be and is in fact carried out by them;

7.4.3 except where expressly required to do so under the Deed or the Rules, the Scheme Administrator, the Professional Trustee and any Co-trustees shall not be obliged to consult or to act upon the wishes of any Member or Survivor; section 11(1) of the Trusts of Land and Appointment of Trustees Act 1996 shall not apply to the Scheme;

7.4.4 the Scheme Administrator will keep proper records as to the allocation of assets and provide other such services as may be agreed with the Member or Survivor, the Professional Trustee and any Co-trustees in this connection; and

7.4.5 before acting on the Member's or Survivor's instructions the Scheme Administrator shall seek the consent of and any necessary documentation from the Professional Trustee and any Co-trustees, which shall not be unreasonably delayed or withheld.

7.5 The Scheme Administrator, the Professional Trustee and any Co-trustees are empowered (at the instruction of the Scheme Administrator) to borrow money for the purposes of the Scheme whether or not for the purposes of investment, to replace such borrowing at a future date and to do so on security or otherwise.

7.6 Borrowing in respect of any Arrangement shall be effected at the request or on the direction of the Member or Survivor in the same ways as those described (in the context of investment) at Clauses 7.3 and 7.4. Without prejudice to the generality of Clause 7.5:-

7.6.1 the Member or Survivor shall as described in Clause 7.3 have power to direct or request how any borrowing is made;

7.6.2 as described and with the qualifications set out in Clause 7.4 the Scheme Administrator, the Professional Trustee and any Co-trustees shall not unreasonably

delay or withhold any necessary actions or consents that are necessary in order to carry out the Member's or Survivor's borrowing requests or instructions;

7.6.3 borrowing must be:-

- within the limits and conditions prescribed by the Finance Act; and
- on commercial terms;

7.6.4 borrowing is also subject to the provisions of Clause 7.7;

7.6.5 the Scheme Administrator may borrow money and grant security in order to do so, without the consent of the Member or Survivor concerned or the consent of any Co-trustees, where such borrowing or giving of security is necessary for reasons of liquidity in order that benefits may be paid from the Scheme; and

7.6.6 the Scheme Administrator, the Professional Trustee and any Co-trustees shall be empowered to include terms and conditions in the relevant documentation excluding any form of personal or other liability for any borrowing made in respect of any arrangement and the Scheme Administrator shall be entitled at its absolute discretion not to implement any request or direction to borrow if it is not satisfied with the terms of any such exclusion that can be agreed.

7.7 The Member's or Survivor's ability to request or direct the investment of his or her Arrangement and any borrowing by his or her Arrangement is subject to:-

- the requirements of the Deed and the Rules;
- the requirements of the Finance Act and any other requirements for the Scheme to be a Registered Pension Scheme;
- the provisions of any Supplemental Deed;
- the terms of the relevant Arrangement;
- any other agreement that he or she has with the Scheme Administrator including the Terms and Conditions; and
- any further matters including restrictions on particular classes or descriptions of investment or other transactions that may be specified by the Scheme Administrator from time to time.

7.8 The Scheme Administrator, the Professional Trustee and any Co-trustees are (for the avoidance of doubt and without prejudice to the generality of the other provisions of this Clause 7) empowered at the request or on the direction (as the case may be) of the relevant Members or Survivors to invest, to borrow and to sell, convert, transpose or vary investments jointly across those Members' or Survivors' Arrangements.

7.9 As described in Clause 16, none of the Scheme Administrator, the Professional Trustee or any Co-trustees shall have any liability in connection with any investments made or borrowing effected (whether or not at the request of the Member or Survivor) in accordance with this Clause 7.

8. Benefits

8.1 The Scheme Administrator shall, using the relevant Arrangement or Arrangements, and with any necessary cooperation from the Professional Trustee or any Co-trustees provide

the benefits of the Scheme to each person who is entitled to receive benefits under the Rules.

8.2 Benefits and options under the Deed and the Rules shall be available to a Member or Survivor in respect of any particular Arrangement only if the terms of that Arrangement so permit.

8.3 If a benefit becomes payable under the Rules and:-

- no one person is entitled to it under the Rules; and
- no valid trust (other than the trusts of the Scheme) exists in respect of that benefit,

then, subject to the recipient being within the category allowed by the Rules, the recipient will be selected by the Scheme Administrator at its absolute discretion.

8.4 A Member or Survivor who is entitled or prospectively entitled to any benefit under the Scheme is obliged to provide the Scheme Administrator with all information required by it and requested in connection with the administration of the Scheme. The Scheme Administrator shall be entitled to withhold benefits in respect of any Member or Survivor until the necessary information is supplied.

8.5 A Member or Survivor who is entitled or prospectively entitled to any benefit under the Scheme is also obliged to inform the Scheme Administrator of any change in circumstances that may have a material effect on any or all of his Arrangements. The Scheme Administrator shall have power (retrospectively if necessary) to take account of any such change of circumstances on discovering it, including for the avoidance of doubt power to adjust or cancel any benefit in respect of the relevant Member or Survivor under the Scheme and power to recover any benefit to which the recipient was not entitled.

9. General Powers of the Professional Trustee, Co-Trustees and Scheme Administrator

9.1 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, acting together or separately, adopt, maintain, modify, enforce or (without prejudice to their ability still to do those things) waive such procedures for the administration of their respective duties as they deem appropriate. This includes varying or waiving any period of notice to them specified in the Trust Deed or in the Rules.

9.2 Subject always to the provisions of this Clause 9, the Scheme Administrator, the Professional Trustee and any Co-trustees may each, acting together or separately, delegate all or any of the powers duties and discretions whatsoever (including discretions both dispositive and administrative) conferred respectively upon them by the Deed, the Rules or otherwise. They may authorise their sub-delegation. This power of delegation includes the delegation by the Scheme Administrator, the Professional Trustee and any Co-trustees of their respective powers and duties in relation to making, holding, registering and managing investments to a nominee.

9.3 Provided the Scheme Administrator, the Professional Trustee and any Co-trustees (as the case may be) retain overall responsibility for the matters so delegated, any such delegation or sub-delegation may be for any period and to any person or persons.

9.4 Without prejudice to the general nature of this Clause 9, the Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, authorise any person or persons to draw cheques on any banking account, to endorse any cheques or to give receipts and discharges for money which shall be as valid and effectual as if given by them themselves.

- 9.5 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, make such arrangements for remunerating any delegate, manager or nominee as they think fit.
- 9.6 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, designate, employ and/or remunerate any agent or agents to transact any business on their behalf whether of an administrative nature or otherwise. Any receipt given to any such agent shall be a sufficient discharge of the Scheme Administrator, the Professional Trustee and any Co-trustees as appropriate.
- 9.7 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, obtain the advice of any solicitor, accountant, broker, medical practitioner or other professional person they think fit and may rely on such advice as they receive. They may remunerate any such professional as they think fit.
- 9.8 Any person dealing in good faith with the Scheme Administrator, the Professional Trustee and any Co-trustees, or any or all of them, or their agents or delegates appointed under this Clause 9, shall be completely discharged by their receipt for any money or asset.
- 9.9 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, deal with insurances whether or not they relate to investments or to risk management or otherwise including at the expense of the Scheme insuring themselves, their directors, officers, employees and members against any liabilities, obligations, costs, claims, proceedings and expenses which they or the assets of the Scheme may incur.
- 9.10 The Scheme Administrator, the Professional Trustee and any Co-trustees may each, in carrying out their respective duties, acting together or separately, send any notice, letter or other communication (including by post or by electronic means) to any Member, Survivor or other person at the address last supplied to them for this purpose, or at his or her last known place of residence. They shall be entitled to assume that the relevant person has received the relevant communication within at most five days of sending it.
- 9.11 Where there is any requirement under the Deed, the Rules or any other Scheme Document for a Member, Survivor or other person to communicate or provide notice in written form to the Scheme Administrator, the Professional Trustee and any Co-trustees, then the Scheme Administrator may specify particular forms (including electronic) by which the Member, Survivor or other person may communicate or give notice.
- 9.12 Provided that it would not threaten the Scheme's registration under the Finance Act, the Scheme Administrator may in relation to the Scheme enter into any lawful transaction which in its opinion is appropriate or desirable or is for the benefit of the Members, Survivors and other beneficiaries of the Scheme. The Professional Trustee and any Co-trustees may give effect to lawful transactions on the same basis.
- 9.13 The Professional Trustee, any Co-trustees and the Scheme Administrator may give any undertaking required by H. M. Revenue and Customs, the Financial Conduct Authority, The Pensions Regulator or any other regulatory or supervisory body or person. The Deed shall then be deemed to be amended to the extent necessary to give full effect to the undertaking.
- 9.14 The Scheme Administrator shall not be prevented or restricted from exercising in its own interest any power or discretion (and nor shall it be obliged to account for any benefit as a result of any such exercise) under or in connection with the Scheme.

- 9.15 No decision or exercise of a power by the Scheme Administrator, the Professional Trustee or any Co-trustees, or by any person to whom any of them have delegated it under the powers set out in this Deed or otherwise, shall be invalidated on the ground that the decision or exercise of the power was tainted because it, a person forming part of it, or such a person to whom a delegation has been made (or any of its officers or employees) had a direct or personal interest in the result of the decision or the exercise of the power.
- 9.16 For the avoidance of doubt, this clause 9 is subject to the the Scheme Administrator, the Professional Trustee and any Co-trustees acting in accordance with the provisions of clause 4.

10. Fees, Charges, Expenses and Commissions

- 10.1 In addition to any fees, charges, expenses or commissions that are integral to the relevant investments or are specifically included in agreements relating to them, the Scheme Administrator, the Professional Trustee and (with the consent of the Scheme Administrator) any Co-trustees other than the Professional Trustee may charge and be paid all proper expenses and remuneration including for the avoidance of doubt:-

- levying fees or charges;
- recovering all fees, levies, charges or expenses incurred by them before or after they or any third party to whom they are responsible for their payment incurs them;
- paying or receiving commission; and
- charging interest on the amount of any such fees, charges, expenses or commission,

in respect of any aspect of the establishment, investment, maintenance and termination of an Arrangement, a Co-trustee SIPP or the Scheme as a whole.

- 10.2 Except where it has agreed to the contrary the Scheme Administrator shall allocate any such fees, charges, expenses or commission to the relevant Members, Survivors or Arrangements (individually, across a Co-trustee SIPP, or across the Scheme) in such proportions and on such basis as it shall in its sole discretion determine. This shall for the avoidance of doubt include an appropriate share of any general expenses incurred in connection with the banking, administration, management, transactions and investment of the Scheme.

- 10.3 Except to any extent to which it has agreed to the contrary, the Scheme Administrator is empowered (without requiring the consent of any other person including any relevant Member or Survivor, the Professional Trustee and any Co-trustees) in its own right and on behalf of the Professional Trustee and any Co-trustees to pay or recover any such fees, charges, expenses or commission that it has allocated to any Member, Survivor or Arrangement by:-

10.3.1 taking them from contributions or other funds or assets received prior to their allocation to the Member, Survivor or Arrangement;

10.3.2 taking them directly from the relevant Member's or Survivor's Arrangements including by:-

- paying or requiring their payment direct from any bank account;
- offsetting them against or adding them to any other credit or debit amounts that are to be applied;

- selling all or any assets;

10.3.3 taking them from benefits payable from or in respect of the relevant Member's or Survivor's Arrangements;

10.3.4 taking them from unallocated funds within the Scheme;

10.3.5 recovering them from the personal funds of the relevant Member, Survivor or other beneficiary.

Where assets are to be sold for this purpose the Scheme Administrator shall where it is practicable to do so give prior written notice to the relevant Members, Survivors or other beneficiaries of any such sale.

10.4 The Professional Trustee and the Scheme Administrator may also retain for their own benefit any interest, commission or other accretion to the Scheme that is received by them if:-

- it arises in relation to a Group Account (as defined at Clause 6.1) or an individual account of the type described at clause 6.2; or
- in their view it cannot reasonably or practicably be allocated and credited to individual Arrangements.

10.5 The Professional Trustee and the Scheme Administrator are empowered unless they agree (either generally, or in relation to any particular Arrangement) otherwise, either separately or jointly to retain for their own benefit or for the benefit of any associate or connected party with which it arises, any commission, fee, remuneration or other benefit obtained in connection with the Scheme.

11. Tax

11.1 In addition to its general powers in relation to charges and expenses under Clause 10 the Scheme Administrator is empowered on any occasion when it, the Provider, the Professional Trustee or any Co-trustees are or may be liable to account to H. M. Revenue and Customs or any other fiscal authority for any tax, duty or charge:-

- to withdraw from the relevant Arrangement; or
- to withhold from the relevant benefit or payment,

the amount that it considers to be required in order to pay, or allow for the payment of, that tax, duty or charge.

11.2 The Scheme Administrator may also postpone payment of the relevant benefit or payment until:-

- undertakings from any person identified by the Scheme Administrator as to the discharge of any such tax, duty or charge are received from the Member, Survivor, beneficiary or other person to the satisfaction of the Scheme Administrator; or
- any such liability to tax, duty or charge has been provided for to the Scheme Administrator's satisfaction or shown (to its satisfaction) not to exist.

11.3 The powers described in Clauses 11.1 and 11.2 also apply in relation to any tax, duty or charge which is joint with the Member, Survivor, beneficiary or other person or where the Scheme Administrator agrees to meet any such liability that is due by (or in respect of any

benefit payable to) any such person.

- 11.4 In the exercise of its powers described at Clauses 11.1, 11.2 and 11.3 the Scheme Administrator shall have:-
- 11.4.1 power to recover and pay the amount of the tax from the relevant Arrangement or from other Arrangements of the relevant Member, Survivor or beneficiary;
 - 11.4.2 power to recover and pay the amount of the tax from any other part of the relevant Co-trustee SIPP or from the Scheme in general;
 - 11.4.3 power to recover and pay the amount of the tax from the relevant Members, Survivors or other beneficiaries personally; and;
 - 11.4.4 power in its own right and as attorney for the Professional Trustee and for any Co-trustees and for the relevant Members, Survivors or other beneficiaries to sell all or any assets of the Scheme in order to do so.
- 11.5 Except where they have expressly agreed to the contrary, none of the Scheme Administrator, the Professional Trustee and any Co-trustees shall be under any duty to any Member, Survivor or other beneficiary to consider the tax implications of the operation of the Scheme in relation to such Member, Survivor or beneficiary or to ensure that the Scheme is operated in a manner which avoids or limits the application of any tax charges, penalties or other costs.

12. Duration of Trust

The perpetuity period applicable to the trusts of the Scheme shall be the period of 80 years from the date of the Establishing Deed or such longer period as it may from time to time be lawful for the trusts of the Scheme to continue in accordance with the Perpetuities and Accumulations Act 2009 or otherwise.

13. Power of Amendment

- 13.1 The Scheme Administrator may at any time add to, alter, amend or modify any or all of the provisions of this Deed and the Rules.
- 13.2 Any such addition, alteration, amendment or modification shall be brought into effect by the execution by the Scheme Administrator of a deed which may make the addition, alteration, amendment or modification effective from a date earlier than the date of the amending deed itself.
- 13.3 For the avoidance of doubt the Scheme Administrator may undertake any of the activities described in this Clause 13 without consulting or requiring the consent of any Co-trustees or of any Member, Survivor or other beneficiary of the Scheme.

14. Bankruptcy

The Welfare Reform and Pensions Act 1999 sets out what is to happen to the rights of a Member or Survivor who is made bankrupt.

For the avoidance of doubt, the existence of any protections for Members or Survivors that may exist under that Act or otherwise shall not preclude the amendment of the Deed and Rules (subject to any applicable requirements for the Scheme's continued registration under the Finance Act and any other statutory or regulatory requirements) to confer additional protections of this nature.

15. Member's or Survivor's Incapacity

- 15.1 If a Member or Survivor is at any time not of full capacity for any reason relating to that person's age or personal circumstances other than bankruptcy or insolvency then the Scheme Administrator may deal with a Legal Guardian who acts on behalf of him or her in respect of any matter to which this Deed, the Rules, any Supplemental Deed and any other Scheme Document may apply during that period.
- 15.2 Except where otherwise required by the context, references to the Member or Survivor in this Deed, the Rules, any Supplemental Deed and any other Scheme Document shall be construed as including the Member's or Survivor's Legal Guardian acting on his or her behalf.
- 15.3 The Scheme Administrator shall have discretion to act on behalf of the Member or Survivor in respect of all matters to which this Deed, the Rules, any Supplemental Deed or any other Scheme Document may apply at any time whilst the Member or Survivor is incapable of managing his or her own affairs, as determined by the Scheme Administrator in its absolute discretion.

16. Exclusion of Liability

- 16.1 To the full extent permitted by law, the Provider, the Scheme Administrator, the Professional Trustee and any Co-trustees shall have no responsibility for the liabilities associated with any Member's or Survivor's Fund (other than from the assets allocated to that Fund).
- 16.2 In particular, none of the Provider, the Scheme Administrator, the Professional Trustee or any Co-trustees (and no officer or employee of any of them) (the **Protected Persons**) shall be liable for any breach of trust or duty, whether committed or omitted by them or by any other person and any Protected Person shall be responsible only for his, her or its own breach of trust or duty knowingly and deliberately committed. In particular (but without prejudice to the foregoing generality) none of them shall:-
- 16.2.1 be obliged to bring or defend any legal proceedings in relation to the Scheme and shall not be chargeable in any way in connection with any such omission;
- 16.2.2 be liable in respect of any payment or payments to any person or persons erroneously made by them;
- 16.2.3 be liable for the costs or consequences of any Unauthorised Payment, any Scheme Sanction Charge, any De-registration Charge or any other tax or duty;
- 16.2.4 be liable for the act or omission of any other person; or
- 16.2.5 be liable in connection with investments or borrowing made in accordance with Clause 7 or in connection with any act or omission of any investment manager appointed by one or more of them whether or not at the Member's or Survivor's request.
- 16.3 Each Member, Survivor and other beneficiary shall keep the Protected Persons indemnified against any loss, liability, obligation, demand, claim, expenses or proceedings whatsoever resulting from their exercise (in relation to the relevant Member's or Survivor's Arrangements) of any powers or discretions under the Scheme or from any of the matters described in Clauses 16.1 and 16.2.
- 16.4 Except to any extent to which it is prohibited under section 256 of the Pensions Act 2004 the Protected Persons:-

16.4.1 shall except to any extent to which they agree otherwise be so indemnified (as described in Clause 16.3) in the first instance from the relevant Member's or Survivor's Arrangements; and

16.4.2 may at the expense of the relevant Arrangements, of relevant Co-trustee SIPP's or of the Scheme as a whole insure those Arrangements, those Co-trustee SIPP's, the Scheme, themselves and their officers, representatives, delegates and nominees against any liabilities of the types covered by Clause 16.1 or otherwise.

16.5 The provisions of this Clause 16 shall extend for the benefit of any person (including its officers or employees) to whom any matter has been directly or indirectly delegated under the powers set out in this Deed or otherwise.

16.6 The duty of care under section 1 of the Trustee Act 2000 shall not apply in relation to the Scheme.

16.7 In any event or circumstance where any part of this Clause 16 is or becomes ineffective, or where it is or becomes ineffective in relation to any aspect of any matter, that shall not affect the remaining parts of this Clause 16 or its effectiveness in relation to any other aspects of that matter.

17. Merging, Closing or Winding-up of the Scheme

17.1 The Scheme Administrator may at any time close the Scheme:-

- to stop admitting new Members to the Scheme, but continuing to accept contributions from, and in respect of, existing Members; or
- to stop admitting new Members to the Scheme and to stop accepting contributions from, and in respect of, existing Members.

17.2 If the Scheme is closed in one of these ways, the Scheme Administrator will continue to operate the Scheme under the Scheme Documents unless or until it resolves at its discretion to wind it up.

17.3 The Scheme Administrator will notify relevant Members, Survivors and other beneficiaries of their rights and options as required under section 113 of the 1993 Act and any other relevant provisions of or under the 1993 Act, 1995 Act and 2004 Act.

17.4 If the Scheme is winding up and a Member or Survivor does not choose to take a transfer value under the Rules, the Scheme Administrator will transfer the Member's or Survivor's Fund to another Registered Pension Scheme of the Scheme Administrator's choice. The Member's or Survivor's consent will not be necessary.

17.5 The Scheme Administrator may merge the affairs, assets and liabilities of the Scheme, the Scheme Administrator (in that capacity) and its Professional Trustee (in that capacity) with those of another Registered Pension Scheme, its scheme administrator and its trustee, whether that other pension scheme is provided by the Provider or not.

17.6 For the avoidance of doubt the Scheme Administrator may undertake any of the activities described in this Clause 17 without consulting or requiring the consent of any Co-trustees or of any Member, Survivor or other beneficiary of the Scheme.

18. De-Registration of Scheme

If the Scheme ceases to be a Registered Pension Scheme the Scheme Administrator will, subject to any permitted exceptions as a result of appeal procedures, inform the Members,

Survivors and other beneficiaries as required under the Finance Act before winding-up the Scheme as described in Clause 17.

19. Governing Law

This Deed and the Rules shall be construed in accordance with the law of England and Wales.

As evidence of the above this Deed was duly executed by the parties hereto on the date first above mentioned

Executed as a deed by)
JAMES HAY SERVICES)
LIMITED)
acting by a director in the presence of: Director

James Hay

Signature of Witness *S. Fry*

Name of Witness *S. Fry*
(in BLOCK CAPITALS)

Address of Witness *Dunn's House*
..... *St Paul's Road*
..... *Salisbury SP2 7BF*

Occupation of Witness *Senior Legal Manager*

The James Hay Personal Pension Plan - Trust Deed

Executed as a deed by)

JAMES HAY PENSION)

TRUSTEES LIMITED)

acting by a director in the presence of:

Director

Signature of Witness

Name of Witness

(in BLOCK CAPITALS)

Address of Witness

Occupation of Witness

A. M. Goo

Sly

S. FRY

Dunn's House
St Paul's Road
Salisbury SP2 7BF

Senior legal Manager

Executed as a deed by)

JAMES HAY ADMINISTRATION)

COMPANY LIMITED)

acting by a director in the presence of:

Director

Signature of Witness

Name of Witness

(in BLOCK CAPITALS)

Address of Witness

Occupation of Witness

A. M. Goo

Sly

S. FRY

Dunn's House
St Paul's Road
Salisbury SP2 7BF

Senior legal Manager

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The James Hay Personal Pension Plan

Scheme Rules

1. INTRODUCTION

- 1.1 With effect from 6 April 2006, the *scheme* is a *registered pension scheme* for the purposes of Chapter 2 of Part 4 of the *finance act*. The *scheme* was formerly a personal pension scheme approved under Chapter IV of Part XIV of the 1988 *act*.

It provides benefits to or in respect of persons:-

- on retirement;
- on death;
- on having reached a particular age;
- on the onset of serious ill-health or incapacity; or
- in similar circumstances,

as described in the *scheme documents* (including these *rules*).

The *scheme* was between 1 October 2008 and 5 April 2012 an *appropriate personal pension scheme*.

- 1.2 These *rules* are designed to ensure that the *scheme* meets the requirements for *registration* under Chapter 2 of Part 4 of the *finance act*. They override any inconsistent provisions in the other *scheme documents*.

These *rules* do not override the law. If any provision conflicts with the law, the law will apply.

The options which a *member* has under the *rules* and other *scheme documents* shall only be available in respect of any particular *arrangement* if the terms of that *arrangement* so permit.

- 1.3 The *scheme* has been set up under irrevocable trusts, under which each *member's fund* and each *survivor's fund* is held separately by the *Professional Trustee* or by any *Co-trustees* as a separate trust fund distinct from the other *members' funds* and *survivors' funds* under the *scheme* with separate assets and liabilities. The assets allocated to *members' arrangements*, *members' funds* and *survivors' funds* and the benefits for the *members*, *survivors* and others under the *scheme* are held under those separate trusts. As set out in the *deed*, separate provision is made for *directly-held policies*.

- 1.4 No *member*, *survivor* or other person is entitled to require the withdrawal of trust or other funds of the *scheme*, or to require the income from those funds to be paid to him or her, except for the payment of the benefits under the *scheme* at the times and in the forms which are provided for by the *rules*.

2. DEFINITIONS

In these *rules* the following words and phrases have the following meanings:-

1988 Act means the Income and Corporation Taxes Act 1988.

1993 Act means the Pension Schemes Act 1993.

1995 Act means the Pensions Act 1995.

2004 Act means the Pensions Act 2004.

2008 Act means the Pensions Act 2008.

Annual Allowance means in respect of each *tax year* the

relevant amount determined as the annual allowance under section 228 of the *finance act* (before the addition in respect of the *member* in question of the amount of any *unused annual allowance* under section 228A of the *finance act*).

Appropriate Personal Pension Scheme means a personal pension scheme (as defined by section 1 of the 1993 *act*) that qualified as an appropriate personal pension scheme under the 1993 *act*.

Arrangement means a *member's* or *survivor's* money purchase arrangement under the *scheme* (as defined for the purposes of section 152 of the *finance act* and taking the form described in the *scheme documents* including *rules* 3.6 to 3.15) issued or accepted by the *scheme administrator* to provide benefits under the *scheme documents*.

Article is a reference to an article of a Statutory Instrument.

Auto-Enrolment Legislation means Part 1 of the 2008 Act (and regulations under it including the Occupational and Personal Pension Scheme (Automatic Enrolment) Regulations 2010).

Basic Amount in relation to contributions to the *scheme* means the basic amount defined by section 190(4) of the *finance act*, being £3,600 or such greater amount as may be specified by an order of H. M. Treasury.

Benefit Crystallisation Event means a benefit crystallisation event as defined in section 216 of the *finance act*, being an event or occurrence that triggers a test of the benefits 'crystallising' at that point against a *member's* available *lifetime allowance*.

Block Transfer means a block transfer as defined in paragraph 22(6) of Schedule 36 to the *finance act*, being (subject to more detailed conditions as set out in and under the *finance act*) the transfer in a single transaction of all the sums and assets held for the purposes of (or representing accrued rights under) the arrangements under the *pension scheme* from which the transfer is made, which relate to the *member* in question and at least one other person who is a member of that pension scheme.

Charity Lump Sum Death Benefit means a charity lump sum death benefit as defined in paragraph 18 of Schedule 29 to the *finance act*.

Civil Partner means a person's civil partner under a Civil Partnership.

Civil Partnership means a registered civil partnership as described at section 1 of the Civil Partnership Act 2004.

Deed means the trust deed, as amended from time to time, to which these *rules* are attached.

Dependant means a dependant as defined by paragraph 15 of Schedule 28 to the *finance act*, under which the following are currently *dependants*:-

- (1) a person who was married to the *member*, or was the *member's civil partner*, at the date of the *member's* death;
- (2) (since the *rules* do hereby so provide) a person who was married to the *member*, or was the *member's civil partner*, at the time the *member* first became entitled to a pension under the *scheme*;
- (3) a child of the *member* who:-
 - (a) has not reached the age of 23; or

- (b) has reached that age but, in the opinion of the *scheme administrator*, was at the date of the *member's* death dependent on the *member* because of physical or mental impairment;
- (4) (to such extent and for such purposes as may at the relevant time be permitted under the *finance act*) a child of the *member* who:-
 - (a) has reached the age of 23; and
 - (b) does not fall within (3) above because in the opinion of the *scheme administrator*, he or she was not at the date of the *member's* death dependent on the *member* because of physical or mental impairment; or
- (5) a person not falling within (1) or (3) above but who, in the opinion of the *scheme administrator*, was at the date of the *member's* death:-
 - (a) financially dependent on the *member*;
 - (b) in a financial relationship with the *member* of mutual dependence; or
 - (c) dependent on the *member* because of physical or mental impairment,

including any person who was (as so defined) a dependant under any other *registered pension scheme* and whose entitlements in that capacity have been transferred to the *scheme*. It is for the *scheme administrator* to decide whether a person meets this definition.

Dependant's Drawdown Pension Fund means a dependants' drawdown pension fund as defined in paragraph 22 of Schedule 28 to the *finance act* and described in *rule* 3.15.

Dependant's Scheme Pension means a dependants' scheme pension as defined in paragraph 16 of Schedule 28 to the *finance act*.

Employee Share Scheme means:-

- a SAYE option scheme as defined in the SAYE Code under section 516 of the Income Tax (Earnings and Pensions) Act 2003; or
- a share incentive plan as defined in the SIP Code under section 488 of the Income Tax (Earnings and Pensions) Act 2003.

Employer means the current employer or employers of a *member*.

Employer-Financed Retirement Benefits Scheme means an employer-financed retirement benefits scheme as defined for the purposes of Part 4 of the *finance act*.

Excess Contributions Condition means the excess contributions condition described at paragraph 6 of schedule 29 to the *finance act*, which is met where a *member* has paid contributions in excess of the *basic amount* or 100% of *relevant UK earnings* in the relevant tax year, whichever is higher.

Excess Contributions Lump Sum means a refund of excess contributions lump sum as described at paragraph 6 of schedule 29 to the *finance act*.

Expression of Wish means a document in which the *member* nominates one or more persons, charities or trusts to receive any lump sum or pension death benefit from the *scheme* at the discretion of the *scheme administrator*.

Ex-Spouse or Ex-Civil Partner means an individual to whom *pension credit rights* have been or are to be allocated following a *pension sharing order*.

Finance Act means the Finance Act 2004.

Insurer means an insurance company as defined for the purposes of section 275 of the *finance act*.

Legal Guardian means a person whom the Scheme Administrator reasonably believes to have the legal authority (and the corresponding duty) to care for the personal and

property interests of another person who is not of full capacity for any reason relating to that person's age or personal circumstances other than bankruptcy or insolvency.

Lifetime Allowance means a *member's* lifetime allowance as defined in section 218 of the *finance act* being the overall ceiling on the amount of pension savings that the *member* can draw without incurring a *lifetime allowance charge*. Under that section this is presently calculated - subject to an additional adjustment if the *member* has applied for and is entitled to certain types of protection under the *finance act* - as the *standard lifetime allowance* for the tax year concerned, multiplied by any applicable lifetime allowance enhancement factor that applies under that section.

Lifetime Allowance Charge means a lifetime allowance charge as defined for the purposes of Part 4 of the *finance act*.

Lifetime Allowance Excess Lump Sum means a lifetime allowance excess lump sum as defined for the purposes of Part 4 of the *finance act*.

Member means an individual:-

- who has made (or is deemed by these *rules* for the purposes of the *auto-enrolment legislation* to have made) one or more *arrangements* under the *scheme* for the provision of benefits; or
- for whom one or more *arrangements* under the *scheme* for the provision of benefits have been made by his or her *legal guardian* at a time when he or she was not of full capacity; or
- for whom one or more *arrangements* under the *scheme* have otherwise been made for the provision of benefits following receipt of a transfer as described in *rule* 11,

and who has not ceased to be a *member* of the *scheme* by virtue of any provision of the *rules*.

Member's Drawdown Pension means a *member's* drawdown pension as defined in paragraph 4 of Schedule 28 of the *finance act* and is paid to the *member* from the *member's drawdown pension fund* or *member's flexi-access drawdown fund* either:

- by the direct payment of *member's income withdrawals*; or
- under a *member's short-term annuity*.

Member's Drawdown Pension Fund means a *member's* drawdown pension fund, as defined in paragraph 8 of Schedule 28 of the *finance act* and described in *rule* 3.14.

Member's Flexi-Access Drawdown Fund means a *member's* flexi-access drawdown fund, as defined in paragraph 8A of Schedule 28 of the *finance act* and described in *rule* 3.14.

Member's Fund means the assets held under an *arrangement* corresponding to the aggregate, under the *arrangement*, of the accumulated values (insofar as allocated to that *arrangement*) of:-

- the contributions paid to the *scheme* by or in respect of the *member*;
- any transfer payment accepted by the *scheme* in respect of the *member*;
- any *pension credit rights* accepted by the *scheme* in respect of the *member*; and
- any income or capital gain or loss arising from the investment of such amounts,

net of any liabilities of the *arrangement* and excluding:-

- any administrative expenses of the *scheme* and any payments of commission; and
- any amount taken from the *member's fund* as a result of a *pension sharing order*.

Member's Income Withdrawal means a *member's* income withdrawal as defined in paragraph 7 of Schedule 28 of the

finance act. Broadly, it means any amount (other than under a *member's short-term annuity*) paid from the *member's drawdown pension fund* or *member's flexi-access drawdown fund*.

Member's Lifetime Annuity means a *member's* lifetime annuity as defined in paragraph 3 of Schedule 28 to the *finance act*. Broadly, it is an annuity payable by an *insurer* to a *member* for life or a permitted term certain, and subject to other conditions under the *finance act* which may vary from time to time.

Member's Scheme Pension means a *member's* scheme pension as defined in paragraph 2 of Schedule 28 to the *finance act*.

Member's Short-Term Annuity means a *member's* short-term annuity as defined in paragraph 6 of Schedule 28 to the *finance act*.

Money Purchase Annual Allowance means in respect of each tax year the relevant amount determined as the money purchase annual allowance under section 227G of the *finance act*.

Money Purchase Benefits means money purchase benefits as defined in section 181 of the 1993 act, except in rule 14.1, where it means money purchase benefits as defined in section 152 of the *finance act*.

Nominee is defined in paragraph 27A of Schedule 28 to the *finance act*.

Normal Minimum Pension Age means normal minimum pension age as defined in section 279 of the *finance act*, being, since 6 April 2010, the age of 55 years.

Occupational Pension Scheme means an occupational pension scheme as defined in section 1 of the 1993 act, or section 176 of the Pension Schemes (Northern Ireland) Act 1993.

Part, except in relation to legislation or an *arrangement*, is a reference to a numbered part of these rules.

Pensionable Age has the meaning given in Schedule 4 to the 1995 act.

Pension Commencement Lump Sum means a pension commencement lump sum as defined for the purposes of Part 4 of the *finance act*.

Pension Credit Rights means rights to benefits arising from a credit as defined in section 101P of the 1993 act.

Pension Date is the effective start date of the *member's* benefits under part 5 of the rules from an *arrangement* or part of an *arrangement*. Except where stated otherwise, different *arrangements* or parts of *arrangements* may each have a different *pension date*.

Pension Input Amount means a pension input amount as defined in section 233 of the *finance act* being the total of:-

- any *relievable pension contributions* paid by or on behalf of the *member* under the relevant *arrangement*; and
- contributions paid in respect of the *member* under the relevant *arrangement* by an employer of the *member*,

during the relevant *pension input period*.

Pension Input Period means a pension input period as defined in section 238 of the *finance act*.

Pension Scheme means a pension scheme as defined for the purposes of Part 4 of the *finance act*.

Pension Sharing Order means any order or provision mentioned in Section 28(1) of the Welfare Reform and Pensions Act 1999, Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, Part 4 of Schedule 5 of the Civil Partnership Act 2004 or Part 3 of Schedule 15 of that Act.

Qualifying Recognised Overseas Pension Scheme means a qualifying recognised overseas pension scheme as defined

for the purposes of Part 4 of the *finance act*.

Recognised Overseas Pension Scheme means a recognised overseas pension scheme as defined for the purposes of Part 4 of the *finance act*.

Recognised Transfer means a recognised transfer as defined for the purposes of Part 4 of the *finance act*.

Registered Medical Practitioner means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practice under that Act.

Registered Pension Scheme means a registered pension scheme as defined for the purposes of Part 4 of the *finance act*.

Registration means registration of the *scheme* or of any other *registered pension scheme* as a *registered pension scheme*.

Regulation is a reference to a regulation of a Statutory Instrument.

Relevant UK Earnings means relevant UK earnings as defined in section 189 of the *finance act* including earnings from employment and self-employment.

Relevant UK Individual in relation to any particular person and *tax year* means a relevant UK individual as defined in section 189 of the *finance act* being an individual who in the *tax year*:-

- (a) has *relevant UK earnings* chargeable to income tax for that *tax year*;
- (b) is *resident in the UK* at some time during that *tax year*;
- (c) was *resident in the UK* both at some time during the five *tax years* immediately before that *tax year* and when the individual became a *member* of the *scheme*; or
- (d) has (or has a spouse or *civil partner* who has) for the *tax year* general earnings from overseas Crown employment subject to UK tax.

Relievable Pension Contribution means a relievable pension contribution as defined for the purposes of section 188 of the *finance act*.

Resident in the UK means resident and ordinarily resident in the United Kingdom for tax purposes.

Rule is a reference to a numbered rule in these rules.

Rules means these rules of the *scheme*.

Scheme means this scheme.

Scheme Administrator means the person appointed in the *scheme documents* as such, who is responsible for the discharge of the functions of the *scheme administrator* as described in section 270 of the *finance act*.

Scheme Documents means the documents that govern the *scheme* (including these rules).

Scheme Pension Contract means a contract effected by the *scheme administrator* with an *insurer* for the provision (as the case may be) of a *member's scheme pension* or of a *dependant's scheme pension* in the manner envisaged respectively by paragraphs 2(2)(a) and 16(2)(a) of Schedule 28 to the *finance act*.

Serious Ill-health Lump Sum means a serious ill-health lump sum as defined for the purposes of Part 4 of the *finance act*.

Severe Ill-health Condition means in relation to a *member's arrangement* the severe ill-health condition defined in section 229(4) of the *finance act* which is currently satisfied if the *member*:

- (a) becomes entitled to all the benefits to which he or she is entitled under the *scheme* in consequence of the *scheme administrator* having received evidence from a *registered medical practitioner* that the *member* is suffering from ill health which makes him or her unlikely to be able (otherwise than to an insignificant extent) to undertake gainful work (in any capacity) before reaching *pensionable*

age, or

- (b) becomes entitled to a *serious ill-health lump sum* under the *arrangement*.

Small Commutation Lump Sum means a payment authorised under section 164(1)(f) of the *finance act* as described under Regulation 11A of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (SI 2009/1171)

Stand-alone Lump Sum means a stand-alone lump sum as defined in article 25 of the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (SI 2006/572).

Standard Lifetime Allowance means the standard lifetime allowance specified under section 218 of the *finance act*, or such amount as is specified by order made by the Treasury and representing the overall ceiling on the amount of tax-privileged savings defined by Treasury Order for each *tax year* that any one individual can accumulate over the course of their lifetime without taking any special factors into account in relation to the individual in question that may increase or decrease the tax-privileged ceiling.

Successor is defined in paragraph 27F of Schedule 28 to the *finance act*.

Survivor means in relation to a deceased *member* any *dependant*, *nominee* or *successor* of that *member*.

Survivor's Annuity means (as the case may be) a dependants' annuity, a nominees' annuity or a successors' annuity as defined respectively in paragraph 17, 27AA or 27FA of Schedule 28 to the *finance act*.

Survivor's Drawdown Pension means (as the case may be) a dependants' drawdown pension, a nominees' drawdown pension or a successors' drawdown pension as defined respectively in paragraph 18, 27B or 27G of Schedule 28 to the *finance act* and is paid to a relevant *survivor* from the *survivor's flexi-access drawdown fund* either:-

- by the direct payment of *survivor's income withdrawals*; or
- under a *survivor's short-term annuity*.

Where the *survivor* is a *dependant* then his or her *survivor's drawdown pension* may instead be payable from his or her *dependant's drawdown pension fund*.

Survivor's Flexi-Access Drawdown Fund means (as the case may be) a dependants', a nominees' or a successors' flexi-access drawdown fund as defined respectively in paragraph 22A, 27E or 27K of Schedule 28 to the *finance act* and described in *rule 3.15*.

Survivor's Fund means those assets deriving from a *member's fund* which have been set aside for the provision of benefits for a particular *survivor*. Each *survivor's fund* shall be determined and valued in the same way as a *member's fund*.

Survivor's Income Withdrawal means (as the case may be) a dependants', a nominees' or a successors' income withdrawal as defined respectively in paragraph 21, 27D or 27J of Schedule 28 to the *finance act*.

Survivor's Short-Term Annuity means (as the case may be) a dependants', a nominees' or a successors' short-term annuity as defined respectively in paragraph 20, 27C or 27H of Schedule 28 to the *finance act*.

Tax Year means a period beginning on 6 April in any calendar year and ending on the following 5 April.

Trivial Commutation Lump Sum means a trivial commutation lump sum as defined for the purposes of Part 4 of the *finance act*.

Unauthorised Payment means an unauthorised payment as defined for the purposes of Part 4 of the *finance act*.

Uncrystallised Funds Pension Lump Sum is defined in paragraph 4A of Schedule 29 to the *finance act*.

Unused Annual Allowance means in respect of any *member* who has an entitlement to it unused annual allowance as

defined in section 228A of the *finance act* under which there may be *unused annual allowance* if:-

- any amount by which the *annual allowance* (before any increase under section 228) for the immediately preceding *tax year* exceeded the total *pension input amount* in the case of the *member* for that *tax year*; or
- any amount by which the *annual allowance* (before any increase under section 228) for either or both of the two *tax years* immediately preceding that immediately preceding *tax year* exceeded the total *pension input amount* in the case of the *member* for the *tax year*,

or both.

3. MEMBERS, ARRANGEMENTS AND BENEFIT OPTIONS

Becoming a Member

- 3.1 A person who is to become a *member* (or as described in *rule 3.2* the *legal guardian* of a person who is not of full capacity who is to be a *member*) must go through a joining procedure as required by the *scheme administrator* by which he or she becomes bound by the terms of the *scheme documents*. A person can become a *member* only if the *scheme administrator* agrees.
- 3.2 Where the *legal guardian* of any prospective *member* who is not of full capacity undertakes the joining procedure on the prospective *member's* behalf he or she must confirm that he or she understands that any payments to the *scheme* can only be used to provide benefits to the *member* under the *rules*, and will not be repaid except as permitted by the *rules*.
- 3.3 Where the *scheme administrator* agrees that an *employer* may use the *scheme* as an automatic enrolment scheme or as a qualifying scheme under the *auto-enrolment legislation* the joining procedure described at *rule 3.1* shall be operated in a way that satisfies applicable requirements of sections 16, 17 and 20 (subject to section 29) of the 2008 *act*. Any provision of the *rules* shall then be overridden to any extent that it conflicts with these requirements and any relevant person for whom the joining procedure is so operated shall become a *member*. An agreement between that *member* and the *scheme administrator* shall in terms of section 3(6), 5(7) or 7(6) of the 2008 *act* be deemed to exist for the issue of *arrangements* under the *scheme* as set out in the *deed* and in other *scheme documents*.
- 3.4 If a *member* who joins the *scheme* in the way described in *rule 3.3* exercises his or her right to opt-out under section 8 of the 2008 *act* the *scheme administrator* will comply with the requirements of the *auto-enrolment legislation* relating to the refund of contributions to the *employer* and unless the *member* remains a *member* by virtue of having other *member's funds* he or she will cease to be a *member*.
- 3.5 Subject to the agreement of the *scheme administrator* an *ex-spouse* or *ex-civil partner* may become a *member* of the *scheme*.

Arrangements and benefit options

- 3.6 If the *scheme administrator* so permits a *member* may make:-
 - a single *arrangement* with the *scheme administrator* in which case these *rules* will apply to that *arrangement*; or
 - more than one *arrangement* with the *scheme administrator*. If the *member* does so, these *rules* will apply to each *arrangement* separately, but the limits described in *rule 4.18* to *4.25* for a *member* will apply to all the *arrangements* together.

The form of *arrangements* used in the *scheme* is described in the *deed* and in the Terms and Conditions of the James Hay Personal Pension Plan. The Terms and Conditions are made available to all *members* before they join the *scheme* and subsequently on request. The Terms and Conditions may be amended from time to time.

- 3.7 *Parts 5 to 13 of the rules set out the main benefit options that are available to the member and his or her survivors under the scheme in relation to each of the member's arrangements.*
- 3.8 Where the *member* has made more than one *arrangement*, or where the terms of an *arrangement* permit the *member* to deal with parts of his or her *arrangement* separately, then, except where stated to the contrary, *parts 5 to 13 of the rules* apply separately to each *arrangement* or part of *arrangement* so that benefits may start separately and at different times from each *arrangement* or part of *arrangement*.
- 3.9 Notwithstanding the availability within the *scheme* of *arrangements* under which part of the *member's fund* is designated for the provision of benefits while part is not, at the discretion of the *scheme administrator* an *arrangement* may later be treated as more than one *arrangement* if the *member* opts for only part of the *member's fund* to be applied for a pension and (if relevant) a lump sum. Any part of the *arrangement* which is not to be applied to the provision of benefits will remain as a separate *arrangement* that has not reached *pension date*.
- 3.10 Whether established under trust or not, the *arrangements* will be the contract between the *scheme* and the *member* or (where applicable) the *legal guardian* acting for a *member* who is not of full legal capacity.
- 3.11 The *scheme administrator* may at its discretion split or merge the *arrangements* for any *member* or *survivor* and may require any *member* or *survivor* to exercise choices under the *rules* – whether or not contained in *parts 5 to 13 of the rules* – in respect of all *arrangements* or parts of *arrangements* or in respect of more than one *arrangement* at once.
- 3.12 The *scheme administrator* may at its discretion make other benefits and benefit options available which are not prohibited under the *finance act* for a *registered pension scheme*, including:-
- providing new or alternative types of benefit from (where applicable) a *member's fund*, a *survivor's fund* or otherwise; and
 - making new or alternative options available in relation to the benefits described elsewhere in the *rules* or introduced under this *rule*,
- subject to any constraints previously imposed by the *scheme administrator* and whether or not an *unauthorised payment* would or might result.
- 3.13 The *scheme administrator* may at its discretion decide not to make benefit options available in order to avoid making an *unauthorised payment* or a payment which it believes to be – or which it expects to be – an *unauthorised payment* following legislative change or clarification.

Drawdown Pension Funds and Flexi-Access Drawdown Funds

- 3.14 Any part (including all) of a *member's fund* which the *member* chooses to designate for the provision of *member's drawdown pension* shall become (depending on the particular circumstances in which he or she does so) either:
- (if it qualifies as a new designation) a *member's flexi-access drawdown fund*; or

- (in any other case) a *member's drawdown pension fund*,

within the *member's fund*.

- 3.15 Any part (including all of it) of a *survivor's fund* which a *survivor* holds as a *dependant* and which he or she chooses to designate for the provision of *survivor's drawdown pension* shall become (depending on the particular circumstances in which he or she does so) either:

- (if it qualifies as a new designation) a *survivor's flexi-access drawdown fund*; or
- (in any other case) a *dependant's drawdown pension fund*,

within the *survivor's fund*. If any other *survivor* chooses to designate part of all of his or her *survivor's fund* for the provision of *survivor's drawdown pension* then it shall become a *survivor's flexi-access drawdown fund* within the *survivor's fund*.

Ceasing to be a Member

- 3.16 A *member* of the *scheme* shall (for the avoidance of doubt) cease to be a *member* once he or she has no remaining *member's funds* under it.

4. CONTRIBUTIONS

- 4.1 The *member* may contribute to the *scheme* such amount as he or she decides even if (subject to the constraint noted at *rule 4.17*) he or she has reached the age of 75. However, the *scheme administrator*, unless it has already agreed to the contrary, is not obliged to accept any contribution and may in particular reject a contribution if:

- (a) insufficient information is provided to enable the *scheme administrator* to apply it;
- (b) in the opinion of the *scheme administrator* the contribution (if made by or on behalf of the *member*) is unlikely to qualify as a *relievable pension contribution*; or
- (c) the *scheme administrator* has not been provided with such information and declarations as it considers necessary in order to secure compliance with the *finance act*.

The *scheme administrator* may also set reasonable conditions to be met before it will accept any contribution including a minimum level of contributions.

- 4.2 The *scheme administrator* may accept contributions in the following circumstances, subject to *rule 4.4*:-

- (1) contributions made by the *member*;
- (2) contributions made by the *member's employer* or former *employer* in respect of the *member*; and
- (3) with the agreement of the *scheme administrator*, contributions made by any other person (including the *member's prospective employer*) on behalf of the *member* with the knowledge of the *member* (or, if relevant, the *member's legal guardian*) which will be treated as contributions made by the *member*.

- 4.3 Unless the *scheme administrator* agrees otherwise at its discretion, it shall only permit contributions under *rules 4.1 and 4.2* where the *member* is a *relevant UK individual* and to the extent that they would not cause the *member* to meet the *excess contributions condition*. *Rules 4.18 to 4.22* explain in more detail the options which may be available in the event that the *excess contributions condition* is met.

- 4.4 When a *member's* benefit under any *arrangement* becomes payable no further contributions may be paid

to that arrangement unless:-

- the arrangement has become more than one arrangement under part 3 of the rules; or
- the arrangement allows the member to deal with parts of it separately.

Payment of Contributions

4.5 Contributions may only be paid:-

- in money form other than cash (cheque, debit card, credit card, standing order, direct debit, direct transfer or via BACS payments) as permitted by the scheme administrator;
- at the discretion of the scheme administrator, in the form of eligible shares (as defined by section 195 of the finance act) in a company from an employee share scheme; or
- at the discretion of the scheme administrator, as assets in specie.

The scheme administrator may (but shall not be obliged to) pursue any person for the payment of any contribution payable to the scheme. It may as noted at rules 4.9 to 4.11 agree an in specie contribution of assets in fulfilment of a contribution due to the scheme.

Contributions of eligible shares

- 4.6 If the scheme administrator decides in its discretion to make the facility available to the member on that occasion a contribution may be made in the form of a transfer of eligible shares (as defined by section 195 of the finance act) in a company from an employee share scheme within a permitted period.
- 4.7 Any shares which are to be contributed in this way shall be taken by reference to the market value of the shares at the date of payment, arrived at using section 272 of the Taxation of Chargeable Gains Act 1992.
- 4.8 The contribution from the employee share scheme must be made within a permitted period of ninety days following:-
- (in the case of an SAYE option scheme) the date when the member exercised the right to acquire the shares; or
 - (in the case of a share incentive plan) the date when the member directed the trustees of the share incentive plan to transfer the ownership of the shares to the member.

Contributions in specie

- 4.9 If the scheme administrator decides in its discretion to make the facility available to the member on that occasion, a contribution of assets in specie may be made provided the member first states to the scheme administrator that a contribution of a specific monetary value is to be made and that an asset is to be transferred in satisfaction of the monetary amount.
- 4.10 If a contribution of assets in specie is agreed by the scheme administrator a formal valuation of the relevant assets must be provided by the member before the scheme administrator can accept them as a contribution, and the value attributed to the assets must be the market value calculated in accordance with section 272 of the Taxation of Chargeable Gains Act 1992. H. M. Revenue and Customs have the right to enquire about the accuracy of any valuation used to determine whether any tax charges in accordance with the relevant legislation will apply.
- 4.11 If a contribution of assets in specie is agreed by the scheme administrator, then the scheme administrator may only accept an asset that has a valuation which is equal to, or less than the monetary amount of the

contribution agreed under rule 4.9. If the value of the asset to be transferred is less than the amount of the monetary contribution, a cash contribution may be made to make up the balance of the contribution.

Use of contributions

- 4.12 The contributions and their proceeds under the scheme must be used to provide benefits in accordance with these rules, except so far as they are used to meet administrative expenses of the scheme and to pay commission.

Method of payment of contributions

- 4.13 Contributions made by a member to the scheme are in most circumstances (as specified in detail in the finance act) amounts net of basic rate income tax if in the tax year in which he or she contributes the member is a relevant UK individual. When the member makes a contribution to the scheme which is treated as an amount net of basic rate income tax in this way, it is the member's responsibility to reduce the intended amount of the contribution by a figure equal to the amount of basic rate income tax due as relief on the intended amount of contribution.
- 4.14 All other contributions made by a member to the scheme are treated as gross amounts. If this applies to the member all contributions up to the basic amount (when grossed up) are paid net of basic rate income tax, and all contributions over this amount are treated as being gross amounts. These contributions must therefore represent the full contribution.
- 4.15 The scheme administrator will recover any amounts due by way of basic rate tax relief from H. M. Revenue and Customs and add the recovered amounts to the member's fund in accordance with these rules. It can do this in respect of those contributions of the member (or which it receives from any other person and which it agrees to treat as if they were paid by the member) which qualify as relievable pension contributions made by a relevant UK individual, but only to the extent that they do not cause the member to meet the excess contributions condition.
- 4.16 All contributions paid to this scheme by an employer are treated by the scheme administrator as being gross amounts. Employer contributions must therefore represent the full contribution.
- 4.17 No tax relief is available on any contributions made by the member paid to the scheme after the member has reached the age of 75.

Excess contributions

- 4.18 It is each member's responsibility in respect of each tax year to notify H. M. Revenue and Customs of the amount of contributions paid to the scheme through his or her self-assessment tax return or otherwise as required by H. M. Revenue and Customs. H. M. Revenue and Customs will notify the scheme administrator if a member has met the excess contributions condition.
- 4.19 Any contributions that cause the member to exceed the excess contributions condition can be repaid from the scheme to the member as an excess contributions lump sum once any basic rate income tax relief on the excess contributions has been deducted by the scheme administrator and repaid to H. M. Revenue and Customs. An excess contributions lump sum can only be paid from the scheme in this way within 6 years of the last day of the relevant tax year.
- 4.20 The member can instead request the scheme administrator in writing to retain the amount of the excess contributions lump sum within the scheme. In any other case, however, the scheme administrator must pay an excess contributions lump sum to the

member.

- 4.21 If the amount of any *excess contributions lump sum* is retained within the *scheme* the *scheme administrator* must maintain a separate record showing that the relevant contribution was not eligible for tax relief.
- 4.22 The *scheme administrator* shall have full discretion to adjust the amount of any *excess contributions lump sum* to take account of expenses and interest and of any change in the value of the underlying assets during the intervening period.

Annual Allowance

- 4.23 The *pension input amount* in respect of each *member* within a *pension input period* will be subject to a check by H. M. Revenue and Customs to establish whether the *pension input amount* for the *scheme* in respect of the *member* (and, if relevant, any *pension input amount* from any other *registered pension scheme*) is in excess of the relevant *annual allowance* for the relevant *tax year*, as increased by the amount of any available *unused annual allowance*.

As provided in the *finance act*, a person may also become subject to the *money purchase annual allowance* in various circumstances including taking certain benefits from this or any other *registered pension scheme*.

- 4.24 If the *pension input amount* in any *pension input period* exceeds the available amount of *annual allowance* or (if applicable) *money purchase annual allowance* H. M. Revenue and Customs will impose a tax charge.
- 4.25 These *rules* explain some – but not all – of the provisions relating to the tax treatment of contributions to, investments under and benefits paid from the *scheme* in order only to explain the contexts within which the *scheme administrator's* powers, discretions and responsibilities arise. In particular it is the responsibility of the *member* and of any *survivor* to be aware of the contributions that are or have been paid to the *scheme* in respect of him or her and to monitor his or her compliance with any requirements under the *finance act* including those relating to:-
- the maintenance of any protection or tax status to which he or she may entitled; and
 - the *annual allowance*, the *money purchase annual allowance*, the *lifetime allowance* or otherwise.

5. MEMBER TAKES HIS OR HER OWN BENEFITS

- 5.1 Subject to the remainder of this *part 5* and to *part 6* of the *rules* and in accordance with any further conditions described in the *arrangement* a *member* may arrange with the *scheme administrator* that he or she will start taking benefits for himself or herself from part or all of an *arrangement* and the date with effect from which they become payable or in the case of *member's drawdown pension* the date from which funds are designated for that purpose shall be the *pension date* in respect of that *arrangement* or part *arrangement*.

Those benefits may take the form of one or more of the *lump sum* and *pension* benefits permitted by the "lump sum rule" and the "pension rules" under sections 166 and 165 of the *finance act* or by regulations made under section 164 of the *finance act* including:-

- a *pension commencement lump sum*;
- an *uncrystallised funds pension lump sum*;
- a *serious ill-health lump sum* or (as described at *part 13* of these *rules*) a *small commutation lump sum*;

- *member's drawdown pension* in the form of *member's income withdrawals* or (at the discretion of the *scheme administrator*) the purchase of a *member's short-term annuity*;
- a *member's lifetime annuity* or (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) *member's scheme pension*; and
- a *lifetime allowance excess lump sum*.

A *member's* options under this *rule* shall take effect subject to the terms applicable to his or her *arrangement*, and to any other terms agreed between the *member* and the *scheme administrator*.

- 5.2 Except as described in *rules 5.3* and *5.4* the *pension date* cannot be earlier than the date the *member* achieves *normal minimum pension age*.

- 5.3 A *member* may choose a *pension date* earlier than the date the *member* achieves *normal minimum pension age* if the *member* is (and will continue to be) medically incapable (either physically or mentally) as a result of:-

- injury;
- sickness;
- disease; or
- disability,

of continuing his or her current occupation and if the *member* actually ceases to carry on that occupation. Before allowing an early *pension date* under this *rule 5.3*, the *scheme administrator* must be satisfied from the evidence of a *registered medical practitioner* that the *rule* applies. If H. M. Revenue and Customs ask to see such medical evidence, the *scheme administrator* must produce it for them.

- 5.4 There were prior to 6 April 2006 certain occupations for which H. M. Revenue and Customs recognised an age lower than 50 as being the age at which people in that particular occupation retired. If a *block transfer* has been received for a *member* in one of these occupations then he or she may in certain circumstances prescribed under the *finance act* have retained the right to start to receive some or all of the benefits at any time after he or she reaches the accepted age.

However, where an early *pension date* is selected under this *rule* the *member's* benefits in respect of all affected *arrangements* shall be tested against a reduced *lifetime allowance* and shall be subject to all other applicable requirements of the *finance act*.

- 5.5 *Pension credit rights* must come into payment in accordance with this *part 5* depending on the circumstances of the *ex-spouse* or *civil partner* who has become a *member* of the *scheme* – not in accordance with the circumstances of the person from whose benefits they are ultimately derived.

6. BENEFITS FOR MEMBER

Lump Sum for the Member

- 6.1 The *member* may choose to receive a *pension commencement lump sum* or an *uncrystallised funds pension lump sum* on the *pension date* subject to the relevant conditions specified in and prescribed under the *finance act*.

- 6.2 The *member* may alternatively choose to receive a *lump sum* on the *pension date* from his or her *member's fund*:-

- 6.2.1 which is a *serious ill-health lump sum* if (in addition to meeting the other requirements of

the *finance act*) the *scheme administrator* has received evidence from a *registered medical practitioner* that the *member* is expected to live for less than one year; or

6.2.2 which is a *small commutation lump sum* paid under *part 13* of the *rules*; or

6.2.3 which is a *stand-alone lump sum* if the necessary requirements for this are met as prescribed under the *finance act*,

and subject to the remaining provisions of this *rule 6.2* the *member's fund* shall be exhausted by the payment of the *lump sum* such that no further benefits shall then be payable under the *arrangement*.

Where a *serious ill-health lump sum* is paid from any *arrangement* any necessary tax shall be deducted by the *scheme administrator* and paid under the *finance act*.

Pension benefits for the Member

6.3 After any *pension commencement lump sum* or *uncrystallised funds pension lump sum* has been paid as described in *rule 6.1*, any remaining part of the *member's fund* will be used to provide pension benefits for the *member* which start on the *pension date* through one or more of:-

- the provision of *member's drawdown pension* in the form of:-
 - *member's income withdrawals*; or
 - (at the discretion of the *scheme administrator*) the purchase of *member's short-term annuity*;
- (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) the payment of *member's scheme pension*; and
- the purchase of a *member's lifetime annuity* from an *insurer*.

Member's Drawdown Pension – Availability and Options

6.4 Where the option is available under the *scheme*, at the *scheme administrator's* discretion the *member* may (by providing notice in such form and for such period as the *scheme administrator* may reasonably require) designate part or all of his or her *member's fund* for the provision of *member's drawdown pension* on a specified basis in the form either of:-

- *member's income withdrawals* that are drawn direct from; or
- a *member's short-term annuity* that is purchased from,

the *member's drawdown pension fund* or the *member's flexi-access drawdown fund* (depending on the matters mentioned at *rule 3.14*).

6.5 The *member* must give the *scheme administrator* notice in such form and for such period as the *scheme administrator* may reasonably require if he or she wishes to adjust the basis on which the *member's drawdown pension* is provided, for example by changing the amount or frequency of the *member's income withdrawals* or by purchasing a *member's lifetime annuity* or *member's short-term annuity* from the *member's drawdown pension fund* or the *member's flexi-access drawdown fund*.

6.6 There is no requirement to draw any income under the *member's drawdown pension facility*. However, there is a limit under the *finance act* for the provision of *member's drawdown pension* from a *member's drawdown pension fund*. If the rate of withdrawal exceeds that limit or if other circumstances specified under the *finance act* are fulfilled then any *member's drawdown pension fund* will become a *member's flexi-*

access drawdown fund.

6.7 Where a *member* is in receipt of *member's income withdrawals* and a *pension sharing order* is subsequently made against the *member* then the *scheme administrator* must confirm in respect of any *pension credit* arising from the *member's fund* the extent (if any) to which any amount may be paid out of the *pension credit* by way of *lump sum* to the relevant *ex-spouse* or *civil partner*.

6.8 In exercise of the discretion referred to in *rule 6.4* the *scheme administrator* may restrict *members'* benefit options in respect of *member's drawdown pension* either generally or in relation to particular individuals or categories of individual. In calculating benefit limits for the purposes of the provision of *member's drawdown pension* from a *member's drawdown pension fund* the *scheme administrator* may where permitted to do so under the *finance act* make its calculations at any time of its choosing within the permitted periods under the *finance act*.

6.9 The precise options which are open to a *member* in respect of *member's drawdown pension* under any particular *arrangement* shall depend upon and be provided subject to the terms of the *arrangement* and such other terms as may be agreed between the *member* and the *scheme administrator*.

Member's Lifetime Annuity and Member's Scheme Pension

6.10 Any *member's lifetime annuity* must conform to the requirements of the *finance act*. The *member's lifetime annuity contract* may also provide benefits for one or more *dependants* or *nominees* on the death of the *member* in accordance with *part 7* of these *rules*, which must also conform to the requirements of the *finance act* for a *survivor's annuity* of the relevant type.

6.11 The *member* has the right to choose the *insurer* from which any *member's lifetime annuity* is to be purchased. Once the *member* has chosen the *insurer*, he or she must write (with all necessary documentation) to tell the *scheme administrator* which *insurer* he or she has chosen.

6.12 The *scheme administrator* will not choose an *insurer* in respect of the purchase of a *member's lifetime annuity*. If the *scheme administrator* permits, any *survivor's annuity* purchased for a *dependant* or *nominee* at the same time may be secured under a different contract or from a different *insurer* than the one providing the *member's lifetime annuity*, chosen either by the *member* or by the specific *dependant* or *nominee* in question.

6.13 On each occasion where under the provisions of the *rules* the purchase of a *member's lifetime annuity* is permissible, the *member* may instead select the payment of a *member's scheme pension* if the *scheme administrator* agrees in its discretion that the option shall be available and the *arrangement* so permits. Detailed provisions for the selection of the terms upon which any *member's scheme pension* may be provided are not set out in the *rules* but shall instead be determined by the *scheme administrator*, which shall arrange for the *member's scheme pension* to be provided by effecting a *scheme pension contract*.

6.14 It is the responsibility of the *scheme administrator* to ensure that any *member's lifetime annuity* purchased by the *scheme* and any *member's scheme pension* provided by the *scheme* conforms to these *rules* and the requirements of the *finance act* and the 1993 *act*.

Lifetime Allowance Excess Lump Sum

6.15 Where part of a *member's fund* remains unused, but

by virtue of previous *benefit crystallisation events* the member has used up all his or her *lifetime allowance*, the remainder of his or her *member's fund* can be paid, provided the necessary conditions under the *finance act* are fulfilled, by way of a *lifetime allowance excess lump sum*. Alternatively, it can be used at the discretion of the *scheme administrator* to provide benefits in pension form under the *scheme*.

7. MEMBER'S DEATH

Benefits from any Member's Lifetime Annuity or Member's Short-Term Annuity

- 7.1 Where a *member* dies who is in receipt of a *member's lifetime annuity* or *member's short-term annuity* the available options depend on the terms upon which the *member's lifetime annuity* or *member's short-term annuity* was purchased and are not described further in these rules.

Member's Choice - Remaining Member's Funds

- 7.2 Each *member* may (but need not) nominate any one or more individuals to receive (as surviving *dependants* or *nominees*) a benefit under rule 7.4 from any remaining part of his or her *member's fund* at the time of his or her death.

This includes, but is not restricted to, the nomination of such a person in an *expression of wish*.

Scheme Administrator's Choice - Remaining Member's Funds

- 7.3 The *scheme administrator* may (but need not) nominate any one or more surviving *dependants* or *nominees* to receive a benefit under rule 7.4 from any remaining part of the *member's fund* at the time of his or her death which is not applied under rule 7.4 as the result of a nomination by the *member* under rule 7.2.

In considering the exercise of this discretion the *scheme administrator* shall take account of, but not be bound by, any *expression of wish*.

Application of Remaining Member's Funds

- 7.4 In applying part or all of a *member's fund* to or for the benefit of a *dependant* or *nominee* as a result of a nomination under rule 7.2 or rule 7.3 the *scheme administrator* shall (at the option of the *dependant* or *nominee*) pay it as a lump sum death benefit or use it to secure:-

- a *survivor's annuity*;
- (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) a *dependant's scheme pension*;
- (at the discretion of the *scheme administrator*) a *survivor's short-term annuity*; or
- *survivor's income withdrawals*, for that person.

- 7.5 *Part 10* of the *rules* shall apply to any remaining part of the *member's fund* following his or her death which is not applied by the *scheme administrator* under rule 7.4.

8. SURVIVOR'S DEATH

Benefits from any Survivor's Annuity or Survivor's Short-Term Annuity

- 8.1 Where a *survivor* dies who is in receipt of a *survivor's annuity* or *survivor's short-term annuity* the available options depend on the terms upon which the *survivor's annuity* or *survivor's short-term annuity* was purchased and are not described further in these rules.

Survivor's Choice

- 8.2 A *survivor* (or unless or until the *survivor* makes such a decision that can be implemented, the *member*) may nominate any one or more individuals to receive a benefit from any part of the *survivor's fund* remaining on the death of that *survivor*:

- in the case of any individual who qualifies as a *successor* of the *member* in the form of:
 - a *survivor's annuity*;
 - (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) a *dependant's scheme pension*;
 - (at the discretion of the *scheme administrator*) a *survivor's short-term annuity*; or
 - *survivor's income withdrawals*,

secured from a *survivor's fund* set aside for the *successor* or paid as a lump sum instead, at the option of the *successor*; or

- in the form of a lump sum death benefit in accordance with *part 10* of the *rules*.

Scheme Administrator's Choice

- 8.3 The *scheme administrator* may (but need not) nominate any one or more individuals to receive (as *successors*) a benefit from any remaining part of the *survivor's fund* at the time of the *survivor's* death which is not applied under rule 8.2 in the form of:

- a *survivor's annuity*;
- (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) a *dependant's scheme pension*;
- (at the discretion of the *scheme administrator*) a *survivor's short-term annuity*; or
- *survivor's income withdrawals*,

for that *survivor* or those *survivors*.

In deciding whether and (if so) how it shall do so, the *scheme administrator* shall take into consideration (but need not follow) any *expression of wish* communicated by the relevant *member*, including any preference expressed by any *survivor* nominated for this purpose by the *member*.

- 8.4 *Part 10* of the *rules* shall apply to any remaining part of the *survivor's fund* following his or her death which is not applied by the *scheme administrator* under rule 8.2 or rule 8.3.

9. DEATH BENEFITS - GENERAL PROVISIONS AND RESTRICTIONS

- 9.1 The *scheme administrator* may at its discretion provide any lump sum or pension benefit permitted by the "lump sum death benefit rule" or the "pension death benefit rules" under sections 168 and 167 of the *finance act* or by regulations made under section 164 of the *finance act*.

- 9.2 Any *survivor's annuity* that has not already been chosen by the *member* will be purchased at the direction of the *survivor* from an *insurer* of his or her choice and shall comply with the requirements of the *finance act*.

- 9.3 Where the option is available under the *scheme*, at the *scheme administrator's* discretion a *survivor* may (by providing notice in such form and for such period as the *scheme administrator* may reasonably require) designate part or all of his or her *survivor's fund* for the provision of *survivor's drawdown pension* on a specified basis in the form either of:-

- *survivor's income withdrawals* that are drawn

direct from; or

- the purchase of a *survivor's short-term annuity* that is purchased from,

the *survivor's flexi-access drawdown fund* or (in appropriate cases as described at *rule 3.15* where the *survivor* is a *dependant*) his or her *dependant's drawdown pension fund*.

9.4 The relevant *survivor* must give the *scheme administrator* notice in such form and for such period as the *scheme administrator* may reasonably require if he or she wishes to adjust the basis on which the *survivor's drawdown pension* is provided, for example by changing the amount or frequency of the *survivor's income withdrawals* or by purchasing a *survivor's lifetime annuity* or *survivor's short-term annuity* from the *dependant's drawdown pension fund* or *survivor's flexi-access drawdown fund*.

9.5 There is no requirement to draw any income under the *survivor's drawdown pension facility*. However, there is a limit under the *finance act* for the provision of *survivor's drawdown pension* from a *dependant's drawdown fund*. If the rate of withdrawal exceeds that limit or if other circumstances specified under the *finance act* are fulfilled then any *dependant's drawdown pension fund* will become a *survivor's flexi-access drawdown fund*.

9.6 A *survivor's* benefits will start as soon as practicable after the *member* or any previous *survivor* dies and any pension benefits shall be backdated to the date the relevant funds are designated for the *survivor*.

9.7 Where a *survivor* ceases to be eligible to receive *survivor's drawdown pension* then any *survivor's drawdown pension* must cease. Any *survivor's fund* remaining in the *arrangement* at the date of such cessation will be used to meet general administrative expenses of the *scheme*.

9.8 In exercise of the discretions referred to in *rules 9.1* and *9.3* the *scheme administrator* may restrict any *survivors'* benefit options under *rules 7* and *8* either generally or in relation to particular individuals or categories of individual. In calculating benefit limits for the purposes of the provision of *survivor's drawdown pension* from a *dependant's drawdown pension fund* the *scheme administrator* may where permitted to do so under the *finance act* make its calculations at any time of its choosing within the permitted periods under the *finance act*.

9.9 The precise options which are open to a *survivor* in respect of *survivor's drawdown pension* under any particular *arrangement* shall depend upon and be provided subject to the terms of the *arrangement* and such other terms as may be agreed between the *member* or the *survivor* and the *scheme administrator*.

10. DEATH BENEFITS - DISTRIBUTION

10.1 If a *member* dies in the circumstances described in *parts 7* or *8* of the *rules* then, except to the extent to which it is used otherwise under those *rules*, the *scheme administrator* shall, as soon as practicable, pay out the *member's fund* as a lump sum:-

- (1) in accordance with any specific provision regarding payment of such sums under the terms of the *arrangement*; or
- (2) if (1) is not applicable and at the time of the *member's* death the *scheme administrator* is satisfied that the *arrangement* is subject to a trust under which no beneficial interest in a benefit can be payable to the *member*, the *member's* estate or the *member's* legal personal representatives, to the trustees of that trust; or

(3) if (1) and (2) are not applicable, at the discretion of the *scheme administrator*, to or for the benefit of any one or more of the following in such proportions as the *scheme administrator* decides:-

- (a) any person, charity, association, club, society or other body (including trustees of any trust whether discretionary or otherwise) whose names the *member* has notified to the *scheme administrator* in writing (whether or not in the form of an expression of wish);
- (b) the *member's* surviving spouse or civil partner;
- (c) the parents and grandparents of the *member* or the *member's* surviving spouse or civil partner and any children and remoter issue of any of them (including for the avoidance of doubt any children or remoter issue of the *member*);
- (d) the *member's* dependants;
- (e) any person, charity, association, club, society or other body entitled under the *member's* will to any interest in the *member's* estate;
- (f) the *member's* legal personal representatives,

and for this purpose a relationship acquired by legal adoption is as valid as a blood relationship.

10.2 The *scheme administrator* will endeavour to pay any lump sum under *rule 10.1* within two years of being notified of the *member's* death (or, where required under the *finance act*, within two years of an earlier date from which the *scheme administrator* could have been reasonably aware of the *member's* death).

10.3 On any occasion where this *part 10* of the *rules* applies in respect of the death of a *survivor*:-

- *rules 10.1(1)* and *(2)* shall not apply;
- references in *rule 10.1(3)(a)* to the *member* shall be read as references to the *survivor*, except that if the *survivor* has not provided the *scheme administrator* with the name of any person, charity, association, club, society, body or trustees as described and to whom a benefit could be paid, they shall continue to be read as references to the *member*; and
- references in *rule 10.1(3)(b)* to (f) to the *member* shall be read as references to the *survivor*.

10.4 Where the necessary conditions under the *finance act* are met, any lump sum payable under this *part 10* of the *rules* may be paid by way of a *charity lump sum death benefit*.

10.5 Where the necessary conditions under the *finance act* are met, any lump sum payable under this *part 10* of the *rules* to a *survivor* may (at his or her option) instead be used to secure:-

- a *survivor's annuity*;
 - (at the discretion of the *scheme administrator* and only if provided under a *scheme pension contract*) a *dependant's scheme pension*;
 - (at the discretion of the *scheme administrator*) a *survivor's short-term annuity*; or
 - *survivor's income withdrawals*,
- for that person.

11. TRANSFERS INTO THE SCHEME

11.1 The *scheme administrator* has discretion to accept a transfer payment from:-

- another *registered pension scheme*;
- a *qualifying recognised overseas pension scheme*;

- a recognised overseas pension scheme;
- an employer-financed retirement benefits scheme; or
- any other pension scheme;

in respect of any person provided that the continuing status of the scheme as a registered pension scheme would not be prejudiced.

11.2 The scheme administrator may specify conditions for the acceptance of any such transfer payment in advance or at the time of its acceptance which may without prejudice to the foregoing generally include conditions:-

- permitting or not permitting transfers or imposing conditions on transfers from any particular pension scheme or from any type of pension scheme including:-
 - pension schemes in any particular jurisdiction;
 - pension schemes set up in any particular way; and
 - pension schemes established, promoted, authorised, operated or advised by any particular person;
- requiring or not requiring the written request or consent of the relevant person;
- specifying a joining procedure for the purposes of rule 3 and this rule;
- applying only to transfer payments in respect of any particular member or survivor or type of member or survivor;
- relating to whether the transfer payment shall form a new arrangement or be added to an existing arrangement; or
- as to the acceptance of transfers in money form or as assets in specie.

11.3 The transfer must be made by a direct payment between the administrator or trustees of the other pension scheme and the scheme administrator. The transfer may not be paid or passed through a financial intermediary or broker.

11.4 Details of the tax consequences relating to the acceptance of transfers are set out in the finance act and for the avoidance of doubt the scheme administrator shall have no responsibility for those consequences to the member or survivor. The scheme administrator must comply generally with all requirements of the finance act and of H. M. Revenue and Customs for the acceptance of transfers and the provision of benefits from transfer payments.

11.5 In certain circumstances described in and prescribed under the finance act, a member who qualifies for low pension age protection in the transferring pension scheme may be able to retain his or her low pension age after transferring into the scheme if:-

- the transferring scheme, immediately before 6 April 2006, was either a tax approved personal pension scheme or a tax approved retirement annuity contract;
- the low pension age which applied to the member on 5 April 2006 was an age under 50;
- the member's occupation on 5 April 2006 was or had been an occupation that was prescribed for this purpose under the 1988 act; and
- the scheme administrator recognises the transfer as part of a block transfer.

11.6 In certain circumstances described in and prescribed under the finance act, a member may be able to retain

his or her low normal retirement age if:-

- the transferring scheme, immediately before 6 April 2006, was a tax approved retirement benefits scheme, a deferred annuity contract, a formerly approved superannuation fund, a statutory pension scheme, or a parliamentary pension scheme;
- the member's normal retirement age under the transferring scheme on 5 April 2006 was an age less than 55;
- the transferring scheme's rules on 10 December 2003 conferred this normal retirement age on certain members of the scheme, including the member (or would have done if he or she had been a member of the transferring scheme on that date), and
- the scheme administrator recognises the transfer as part of a block transfer.

11.7 In the case of a person who is or will be a member in respect of the transfer payment the transfer must be completed before pension date unless the scheme administrator decides in its discretion that it may be accepted subject to the conditions described in rules 11.8 and 11.9.

In the case of a person who is or will be a survivor in respect of the transfer payment the transfer can unless the scheme administrator specifically agrees otherwise only be accepted subject to the conditions described in rules 11.8 and 11.9.

11.8 The condition described in this rule 11.8 is that the scheme administrator at its discretion permits the member or survivor to transfer into the scheme benefits from an arrangement held under another registered pension scheme from which member's drawdown pension or survivor's drawdown pension (as the case may be) is being taken.

11.9 The conditions described in this rule 11.9 are that:-

11.9.1 the payment must consist of the whole of the member's fund or survivor's fund held under each arrangement being transferred;

11.9.2 the receiving arrangement must have been set up by the scheme specifically to accept the transfer or an earlier or simultaneous transfer of the same nature and must prohibit the acceptance of:-

- contributions under part 4 of these rules, and
- further transfer payments which do not fall within this rule,

and any subsequent transfers must also be to this or another new arrangement of this sort;

11.9.3 the member or survivor must in applying for the new arrangement have elected to the extent permitted under part 6 of the rules to commence drawdown pension (which in the case of member's income withdrawals could be of a nil amount) with effect from the date of transfer;

11.9.4 no pension commencement lump sum or other form of lump sum may be paid from the new arrangement other than on the death of the member or survivor; and

11.9.5 the scheme administrator must comply generally with any requirements of H. M. Revenue and Customs or the finance act.

12. TRANSFERS OUT OF THE SCHEME

- 12.1 At the written request of a *member* the *scheme administrator* will as described in this *rule* transfer the *member's fund* to another *pension scheme* of which he or she has become a *member*.
- 12.2 The *member's fund* may be so transferred only by transferring monies or assets *in specie* by means of a *recognised transfer* to:-
- another *registered pension scheme*; or
 - a *qualifying recognised overseas pension scheme*.
- 12.3 Details of the tax consequences relating to the payment of transfers are set out in the *finance act*.
- 12.4 The transfer must be made by a direct payment between the *scheme administrator* and the administrator or trustees of the other *pension scheme*. The transfer may not be paid or passed through a financial intermediary or broker.
- 12.5 The *scheme administrator* must comply generally with all requirements of the *finance act* and of H. M. Revenue and Customs for the payment of transfers.
- 12.6 The *member* may withdraw a request under this *rule* by giving the *scheme administrator* notice in writing to that effect but may not withdraw a request after the *scheme administrator* has entered into a binding agreement with a third party to make the transfer to the other scheme. A *member* who has withdrawn a request may make another.
- 12.7 Except as described in *rules* 12.8 and 12.9, the transfer must be completed before *pension date*.
- 12.8 Where the *member* is taking *drawdown pension* from an *arrangement* in accordance with *part 6* of the *rules* and has not yet purchased a *member's lifetime annuity* or taken *member's scheme pension*, then if the *scheme* so permits and the *scheme administrator* allows it in the individual case, a transfer may be made to an *arrangement* under another *registered pension scheme* provided:-
- the payment consists of the whole of the *member's fund* under the transferring *arrangement* (partial payments not being permitted); and
 - the receiving *arrangement* conforms to the requirements of the *finance act*.
- 12.9 Where a *survivor* is taking *drawdown pension* from an *arrangement* in accordance with *part 9* of the *rules* and has not yet purchased a *survivor's annuity* or taken *dependant's scheme pension*, then if the *scheme* so permits and the *scheme administrator* allows it in the individual case, a transfer may be made to an *arrangement* under another *registered pension scheme* provided:-
- the payment consists of the whole of the *survivor's fund* under the transferring *arrangement* (partial payments not being permitted); and
 - the receiving *arrangement* conforms to the requirements of the *finance act*.
- 12.10 Entitlement to benefit under the *scheme* for or in respect of the *member* or *survivor* will cease in respect of any rights transferred in accordance with these *rules* and the *scheme* will be discharged from any obligation to provide benefits in respect of those rights.
- 12.11 Except where the transfer is made under *rule* 12.8 or 12.9 a *member* may at the discretion of the *scheme administrator* elect under this *rule* for different parts of the *member's fund* to be transferred as described above to different schemes, or for only part of it to be transferred from the *arrangement*.

13. SMALL COMMUTATION LUMP SUM

- 13.1 A *member* can apply for a *small commutation lump sum*, if one can be made under the *finance act*. The conditions that are currently required for this to be the case include that:-
- the *member* has not previously received more than two *small commutation lump sums* under the *scheme* or any other *registered pension scheme*;
 - the payment does not exceed the prescribed maximum amount which is currently £10,000;
 - all rights of the *member* under the relevant *arrangement* cease and the liabilities of the *scheme administrator* in respect of it are discharged in accordance with these *rules*; and
 - the *small commutation lump sum* is paid after the *member* reaches *normal minimum pension age* or fulfils the ill-health conditions described at *rule* 5.3.

14. GENERAL PROVISIONS ABOUT BENEFITS

Rights under the scheme

- 14.1 A person's only rights under the *scheme* are those given under the *scheme documents* or by any insurance or pension contract purchased with the *member's fund*.
- The *scheme* must provide *money purchase benefits*.

Assignment or surrender

- 14.2 Rights to a lump sum retirement benefit under the *scheme* may not be assigned or surrendered, except to the extent necessary to give effect to comply with a *pension sharing order*.
- 14.3 No pension secured with a *member's fund* may be assigned or surrendered except in the following circumstances:-
- (1) A pension which continues under a guarantee to a person's estate after his or her death may be assigned by his or her will, or by his or her personal representatives in distributing his or her estate, for any of the following reasons:-
 - to give effect to his or her will; or
 - to give effect to the rights of those entitled on his or her intestacy; or
 - to appropriate it to a legacy or to a share or interest in the estate.
 - (2) To the extent necessary to comply with a *pension sharing order*.
 - (3) As permitted by sections 342A to 342C of the Insolvency Act 1986 and sections 36A to 36C of the Bankruptcy (Scotland) Act 1985, as amended by sections 15 to 16 of the Welfare Reform and Pensions Act 1999.
 - (4) As permitted by section 273 to 278 of the Proceeds of Crime Act 2002.

Information to Members

- 14.4 The *scheme administrator* will issue an annual statement to *members* and others as required under section 113 of the 1993 *act*.

Beneficiary unable to act

- 14.5 If the *scheme administrator* believes that a person entitled to payments is unable to act for any reason, the *scheme administrator* may at its discretion arrange that payments, instead of being made to that person, will be made for the maintenance of that person and / or any of that person's *dependants* (including, in the case of a person who is not a *member*, the individuals who would have qualified as his or her *dependants* if

he or she had been a *member*). If any payments are not so made, they (and any proceeds) must be held for the person concerned until that person is again able to act. If that person dies without becoming able to act, payment must be made to that person's estate. Any payment made in accordance with this provision will discharge the *scheme* from any obligation to provide the benefits to which it relates.

Prison

- 14.6 If a person entitled to benefit is serving a period of imprisonment or detention in legal custody, payments which are or become due to that person from a *member's fund* or payments of a benefit secured with that fund may (but need not) at the discretion of the *scheme administrator* be suspended. The value of the suspended payments must then be used for the maintenance of one or more of that person's *dependants* (including, in the case of a person who is not a *member*, the individuals who would have qualified as his or her *dependants* if he or she had been a *member*).

Whereabouts unknown

- 14.7 The *scheme administrator* may use discretion to decide that any person who is entitled to a payment under the *scheme* shall cease to have any claim to the payment if at least six years have passed from the date the payment became due and the address of the person is not known to the *scheme administrator*. The *scheme administrator* must, however, first take all reasonable steps to ascertain the person's address.

Evidence

- 14.8 The *scheme administrator* may require any *member* or any other person to whom a pension or lump sum is payable under the *scheme* to produce any evidence or information which the *scheme administrator* may from time to time reasonably require. If the *member* or the other person does not produce the evidence or information, the *scheme administrator* may withhold payment of any benefit to which it is relevant until it is produced.

Notice to scheme administrator

- 14.9 Where these *rules* give a *member* or other person any choice, the *scheme administrator* and the *arrangement* may impose any requirements as to the period or form of the notice to be given by the *member* or other person, so long as these do not conflict with any requirements specified in these *rules*. The *scheme administrator* shall also be entitled to waive any period of notice. However, no such waiver shall diminish the *scheme administrator's* right to insist upon the period of notice in the future.

15. GENERAL PROVISIONS ABOUT PENSIONS

Payment intervals

- 15.1 Any pension paid in the form of *member's* or *survivor's income withdrawals* may in accordance with the options which from time to time are made available by the *scheme administrator* be paid in advance or in arrears and must be paid at least once a year.
- 15.2 Any *lifetime annuity* or *survivor's annuity* may be purchased on terms which include payment in

advance or in arrears and must be paid at least once a year. However, if it is payable in arrears, it must be paid at least monthly unless the recipient agrees in writing that it can be paid less often.

Increase in payment

- 15.3 Where permitted under the *finance act* any pension under the *scheme* may be of a level amount, a variable amount or may increase in payment.

Enforceability

- 15.4 The *scheme administrator* may only buy a *lifetime annuity* or a *survivor's annuity* if it is satisfied that any person who is or may be entitled to payment of that pension has a legal entitlement to it which he or she can enforce.

16. PENSION SHARING AND EARMARKING ORDERS

- 16.1 The *scheme administrator* shall comply with all requirements under the 1995 *act* and the Welfare Reform and Pensions Act 1999 relating to the supply of information in connection with a *member's* involvement in any proceedings relating to judicial separation or to the dissolution or nullity of his or her marriage or civil partnership.

- 16.2 The *scheme administrator* shall be entitled, where permitted under the 1995 *act* and the Welfare Reform and Pensions Act 1999, to charge for:-

- the provision of information; and
- complying with any *pension sharing order* or *earmarking order*,

and the *scheme administrator* may (subject to the provisions of those Acts) determine how and at what time any such charges shall be recovered.

- 16.3 The *scheme administrator* shall discharge its liability in respect of any *pension credit* in accordance with the requirements of the Welfare Reform and Pensions Act 1999 by:-

- transferring the *pension credit* to another registered *pension scheme*; or
- if the *scheme administrator* decides at its discretion to provide this facility, by allowing the *ex-spouse* or *ex-civil partner* to apply to become a *member* of the *scheme* (even if the *scheme* is closed to new *members*) if he or she is not already a *member*, and transferring the *pension credit* to his or her *member's fund*.

- 16.4 If an *ex-spouse* or *ex-civil partner* dies after a *pension sharing order* agreement or equivalent provision is made but before it is discharged, the *scheme administrator* shall provide:-

- a lump sum death benefit which is payable at the discretion of the *scheme administrator*; and/or
- a *survivor's annuity* for one or more *survivors* of the *ex-spouse* or *ex-civil partner*,

as described at *rule 7* as if the *ex-spouse* or *ex-civil partner* were a *member* and subject to the options applicable to benefits payable under that *rule*.

