


SUPPLEMENTAL TRUST DEED  
THE GBC PENSION SCHEME

GLENN BROOKS  
DENTON & CO TRUSTEES LIMITED

Dated 22 August 2013



Certified to be a true  
copy of the original

THIS SUPPLEMENTAL TRUST DEED is made the  
BY the Trustees as specified in the Schedule

22nd day of August 2013

WHEREAS

- A. This Deed is supplemental to all prior documents which established and made provision for a registered pension scheme for the purposes of Section 150 (2) of the Finance Act 2004 called The GBC Pension Scheme ("the Scheme") for certain of the employees of GB Contracts Limited ("the Founder") and such other companies which might thereafter agree to participate therein
- B. The Trustees are the present trustees of the Scheme
- C. The Trustees in accordance with the powers conferred on them wish to amend the provisions governing the Scheme

NOW THIS DEED WITNESSETH and it is hereby declared and agreed as follows:

- 1. The Scheme shall from the date of this Deed be administered under the terms of this Deed, and Dentons Money Purchase Scheme Provisions (2013 Edition) ("the Provisions"), which shall form part of and be incorporated with this Deed
- 2. The said terms shall be regarded as superseding the terms governing the administration of the Scheme prior to the date of this Deed
- 3. The Trustees shall continue to act as trustees of the Scheme
- 4. Decisions made and powers validly exercised prior to the date of this Deed in accordance with the terms then in force shall not be questioned or invalidated on the grounds of being inconsistent with the express terms of this Deed or the Provisions
- 5. The Fund will be held by the Trustees upon irrevocable trust (subject to the payment of all expenses properly incurred in connection with the Scheme) for the provision of benefits for such persons as become eligible to participate in the Scheme in accordance with the terms of this Deed and the Provisions
- 6. The Employers shall contribute to the Fund and the Members may contribute to the Fund
- 7. This Deed shall be known as "the Definitive Deed"
- 8. This Deed and the Provisions are to be read and construed in accordance with the laws of England

IN WITNESS whereof this instrument has as appropriate been signed as a Deed as set out below on the date referred to above

**Schedule**  
**"The Trustees"**

Name	Registered Office/Address
Glenn Brooks	22 Liddington Street Swindon Wilts SN2 1SF
Denton & Co Trustees Limited	Sutton House Weyside Park Catteshall Lane Godalming Surrey GU7 1XE

Signed as a Deed and Delivered  
by the said  
GLENN BROOKS  
in the presence of: -

Signature

Name

Address

Occupation

*L Ford*  
LAURENCE FORD  
2 HARTSTONE Cottages  
STONE LANE  
CRICKLAKE  
SWINDON SN665P  
MIDLAND

*[Signature]*

Signed as a Deed and Delivered  
by the said  
DENTON & CO TRUSTEES LIMITED  
acting by a Director and its Secretary/  
two Directors

Director:

Director/Secretary

*[Signature]*  
*[Signature]*

# **DENTONS MONEY PURCHASE SCHEME PROVISIONS (2013 EDITION)**

## **CONTENTS**

A	INTERPRETATION .....	3
B	TRUSTEE POWERS.....	6
1.	Administration and Management.....	6
2.	Decision Making .....	6
3.	Amendment .....	7
4.	Investment .....	7
5.	Borrowing.....	8
6.	Nominees.....	8
7.	Delegation.....	8
8.	Appointment and Removal of Trustees .....	8
9.	Indemnity .....	8
10.	Trustees' Interests .....	9
11.	Remuneration .....	9
12.	Insurance .....	9
13.	Augmentation of Benefits .....	9
C	GENERAL PROVISIONS .....	9
14.	Accounts.....	9
15.	Audit and Inspection of Accounts .....	9
16.	Expenses .....	10
17.	Resolutions.....	10
18.	Surplus Assets.....	10
19.	Notices.....	10
20.	Place of Residence.....	10
21.	Place of Payment .....	10
22.	Evidence Wanted .....	10
23.	Error in Statement .....	11
24.	Actuarial Investigations.....	11
25.	Liability of Employers.....	11
26.	Off-set for Crime or Fraud .....	11
27.	No Restriction on Dismissal.....	11
28.	Claims - Limitation .....	11
29.	Inspection of Documents.....	11
30.	Notification of Amendments.....	11
31.	Adherence .....	11
32.	Withdrawal.....	12
D	MEMBERSHIP .....	12
33.	Eligibility.....	12
34.	Evidence of Age .....	12
E	CONTRIBUTIONS .....	12
35.	Employer's Contributions.....	12
36.	Member's Contributions.....	12
37.	Non Member Contributions.....	12
38.	Payment of Contributions .....	12
39.	Allocation of Contributions.....	12
40.	Application of Contributions.....	12
41.	Application of Contributions to Provide Life Insurance.....	12
42.	Excess Contributions.....	13
F	BENEFITS .....	13
43.	Retirement Date .....	13
44.	Incapacity.....	13
45.	Lifetime Annuities .....	13
46.	Drawdown Pension.....	13

47.	Scheme Pension .....	14
48.	Pension Commencement Lump Sum.....	15
49.	Trivial Benefits .....	15
50.	Exceptional Ill-health Lump Sum.....	15
51.	Lump Sum Death Benefit .....	15
52.	Dependants' Annuities.....	15
53.	Dependant's Drawdown Pension .....	15
54.	Dependant's Scheme Pension .....	16
55.	Maximum Dependants' Annuities .....	16
56.	Death of a Dependant .....	16
G	PRESERVATION OF BENEFITS ON WITHDRAWAL FROM SERVICE.....	17
57.	Entitlement to Short Service Benefits.....	17
58.	Payment of Short Service Benefits.....	17
59.	Short Service Refund Lump Sum .....	17
60.	Notification to Leaving Member .....	17
61.	Early or Late Payment of Short Service Benefits .....	17
62.	Purchase of Annuity Contract.....	17
63.	Transfer-out Payment.....	17
H	TRANSFERS.....	17
64.	Transfers Out.....	17
65.	Transfer Received .....	18
I	RECONSTRUCTION AND WINDING UP .....	18
66.	Determination of the Scheme.....	18
67.	Change of Founder.....	18
68.	Cessation of Founder .....	19
69.	Winding up.....	19
70.	Withdrawal of an Employer.....	19
J	PENSION SHARING ON DIVORCE .....	20
71.	Pension Credit Benefits .....	20
K	MISCELLANEOUS PROVISIONS .....	20
72.	Arrangements .....	20
73.	Cessation of Payments.....	20
74.	Lifetime Allowance Charge.....	20
75.	Form of Notice .....	20
76.	Benefits Not Assignable .....	21
77.	Deduction of Tax .....	21

## **DENTONS MONEY PURCHASE SCHEME PROVISIONS (2013 EDITION)**

These provisions relate to a money purchase scheme and are to apply unless overridden or varied by the Definitive Deed or any later lawful amendment of it

### **A INTERPRETATION**

In these provisions unless the contrary intention appears:

- (i) pronouns and adjectival pronouns denoting the masculine gender shall be construed as including the feminine
- (ii) words in the singular shall be construed as including the plural and words in the plural as including the singular
- (iii) references to any enactment include reference to that enactment as amended or extended by or under any other enactment
- (iv) the headings are for convenience of reference only and are not to be construed as part of the provisions
- (v) any question of whether a person is connected with another shall be determined in accordance with Section 993 of the Income Taxes Act 2007 and any subsequent amendment thereto

and the following expressions have the following meanings:

**"The Act"** means Part 4 of the Finance Act 2004 and the schedules relating thereto and any statutory amendment modification or re-enactment thereof.

**"The Actuary"** means the actuary for the time being employed to advise regarding the Scheme.

**"The Administrator"** means the person who satisfies the requirements of the Board of the Inland Revenue under the Act.

**"Annuitant"** shall mean a person other than the Member who has an entitlement to an annuity from the scheme.

**"Associated Employer"** shall mean an employer which has Control over an Employer, or over which an Employer has Control, or where a third party has Control over both.

**"Associated Employment"** shall mean any employments held by the Member with Associated Employers where the period of employment counts under the Scheme.

**"The Auditor"** means the auditor for the time being employed by the Trustees to audit the Scheme accounts.

**"Beneficiaries"** in respect of a deceased Member means:

- (i) his widow or widower or civil partner
- (ii) his children and remoter issue and the spouses and civil partners, widows and widowers of such children or remoter issue
- (iii) his grandparents
- (iv) the descendants of his grandparents and the spouses and civil partners, widows and widowers of those descendants,
- (v) a person who, at the date of the Member's death, was a Dependant

- (vi) any person nominated by the Member in writing to the Trustees for the purpose of the Scheme
- (vii) any individuals entitled under the Member's will to any interest in his estate and
- (viii) any other person corporate or unincorporate whom the Trustees may select.

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

**"Civil Partner"** shall mean a civil partner of the Member as defined in Section 1 of the Civil Partnership Act 2004.

**"Control"** in relation to a body corporate or partnership shall be construed in accordance with Sections 450 and 451 Corporation Taxes Act 2010 and in relation to an unincorporated association that section shall be applied as it applies to a body corporate.

**"Controlling Director"** shall mean a Member to whom Section 452 (2) (b) and (3) of the Corporation Taxes Act 2010 applies.

**"Dependant"** in respect of a Member means:

- (i) his widow, widower, or Civil Partner
- (ii) his child, either natural or adopted, under 23, or over 23 and in the opinion of the Trustees at the date of death of the Member dependent on the Member because of physical or mental impairment.
- (iii) such other person who in the opinion of the Trustees is (or was at the date of his death) dependent or interdependent on him for all or any of the necessities of life.

**"Dependant's Fund"** shall mean the value from time to time of those funds derived from the Member's Fund to provide benefits for a particular dependant.

**"Discretionary Trusts"** means the following provisions in regard to any sum directed to be held thereon in respect of a deceased Member:

- (A) The Trustees shall have power to pay or apply the whole, or any part, of that sum to or for the benefit of all or any of the Beneficiaries living or en ventre sa mere at the date of death of the deceased Member in such shares and proportions as the Trustees shall in their absolute discretion decide. The Trustees shall not be bound by any nomination or request for the Member to them by him, so that, in connection with the application of any part of such sum for the benefit of any one or more of the Beneficiaries of the deceased Member, the Trustees shall have power to declare trusts and constitute separate trustees thereof and provide for their remuneration.
- (B) If the Trustees shall not exercise such power within twenty four months of the death of the Member before their retirement date, the Trustees shall hold such sum on trust for the personal representatives of the deceased Member absolutely PROVIDED THAT if there are no Beneficiaries as aforesaid at the date of death of the deceased Member, the amount held on Discretionary Trusts will revert to the general capital of the Fund and be used for the purposes of the Scheme.

**"Drawdown Fund"** means that part of the Member's Fund which is designated as available to provide Drawdown Pension under Provision 46.

**"Employee"** means a present or former employee of an Employer and includes a director.

**"Employer"** means any corporate entity, registered charity or partnership which is either owned or controlled by a Member or which employs the Member.

**"The Employers"** means the Founder and any other Employer which lawfully participates in the Scheme.

**"Enhanced Protection"** means the application of paragraph 12 of schedule 36 of the Act in respect of a Member.

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

**"Ex Spouse Participant"** is an Ex Spouse who participates in the Scheme. For this purpose the Ex Spouse Participant must participate in the Scheme, either,

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

**"The Fund"** means the assets held for the purposes of the Scheme.

**"HMRC"** means The Commissioners or Officers of Revenue and Customs or both of them as the context may require.

**"Index"** shall mean the Government's Index of Retail Prices.

**"Incapacity"** means a serious breakdown in health or incapacity of a Member so as to render him unable to follow his normal occupation proved to the satisfaction of the Trustees.

**"Insurance Company"** is as defined in Section 275 of the Act.

**"Lifetime Allowance"** is the member's lifetime allowance as defined in Section 218 of the Act.

**"Member"** shall mean an eligible person who has been invited by the Trustees to become a Member of the Scheme, or an Ex Spouse Participant whose rights under the Scheme derive from a Pension Sharing Order, agreement or equivalent provision, and whose membership has been notified to the Trustees. He shall remain a Member for as long as he has any right or contingent right to receive benefit from the Scheme.

**"Member's Credit"** means that part of a Transfer Credit attributable to the Member's own contributions to a scheme of which he was previously a member.

**"Member's Fund"** means the aggregate of the accumulated value of:

- (i) the contributions paid to the scheme by or in respect of the Member and
- (ii) any Transfer Credits received in respect of the Member and
- (iii) any Pension Credits attributable to the Member and
- (iv) any life assurance benefit taken out by the Trustees with an Insurance Company on the Member's life and
- (v) the income or gains, whether realised or not, attributable to the investment of any of the above receipts but excluding:
  - (a) the value of any premiums applied to any life insurance contract by the Trustees on the Member's life and
  - (b) any administrative expenses, costs or fees together with any actual or prospective liabilities of the Trustees and
  - (c) any Pension Debit applicable to the Member and
  - (d) any investment losses, whether realised or unrealised, relating to the investments made in respect of (i) to (iv) above and
  - (e) any reduction necessary to obtain Enhanced Protection.

**"Minimum Retirement Date"** prior to 6 April 2010 is the Member's 50<sup>th</sup> birthday, and thereafter the attainment of age 55 unless the Member satisfies the requirements set down in Schedule 36 of the Act or any other requirements of HMRC which would enable benefits to commence at an earlier age.

**"Pension Credit"** means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.



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

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

**"Pension Debit"** means a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.

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

**"Perpetuity Period"** means the period expiring on the eightieth anniversary of the date of the Definitive Deed if there shall have been no legislation making it lawful for the trusts of the Fund to continue for an indefinite time or in perpetuity.

**"Private Company"** means a company which is not officially listed on a recognised stock exchange within the meaning of Section 1005 of the Income Tax Act 2007.

**"Professional Trustee"** means Denton & Co Trustees Limited or NTS Trustees Limited or such other professional trustee company as has been appointed as a Trustee of the scheme.

**"Qualifying Recognised Overseas Scheme"** means a Recognised Overseas Pension Scheme which satisfies such requirements as are prescribed by HMRC from time to time.

**"Recognised Overseas Pension Scheme"** is an overseas pension scheme which is established in a country or territory listed in the Pension Schemes (Categories of Country and Requirements for Recognised Overseas Schemes) Regulations 2004 or is of a description prescribed in those regulations or if it satisfies any requirements in those regulations, as amended from time to time.

**"Relative"** means a brother, sister, ancestor or lineal descendant.

**"The Rules"** means the terms of the Definitive Deed, the provisions as incorporated within the Definitive Deed or any later lawful amendment thereof.

**"Service"** shall mean service with the Employer or an Associated Employer.

**"Short Service Benefits"** has the meaning given to it in section (G) of these provisions.

**"Tax Year"** means a period beginning on 6 April and ending on the next following 5 April.

**"Transfer Credit"** means benefits and rights accorded to a Member by reference to a transfer payment received from another authorised source and forms part of a Member's Fund.

**"Trivial"** means an annual amount which can be commuted into a Trivial Commutation Lump Sum as defined in Schedule 29 of the Act.

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

## **B TRUSTEE POWERS**

The Trustees shall have the following powers:

### **1. Administration and Management**

To administer and manage the Scheme in accordance with the powers expressed in the Rules. The Trustees are, for the purposes of the Act, the Administrator of the Scheme as defined in Section 270 of the Act.

### **2. Decision Making**

In their absolute discretion to make decisions on all questions and matters of doubt arising in respect of the Scheme, whatever the subject matter may be, such decisions to be unanimous.

### 3. Amendment

From time to time or at any time by deed or deeds executed by the Trustees or, where the Trustees deem it appropriate, by Trustees' resolution to add to, alter or modify all or any of the Rules. Without prejudice to the generality of the above, such addition, alteration or modification may be made to be effective from a date earlier than the instrument so adding, altering or modifying PROVIDED THAT any such addition, alteration or modification shall not serve to increase payments to be made into, or in respect of, the Scheme by any of the Employers unless they so agree.

No such alterations shall be made if alterations would prejudice the status of the Scheme as a registered pension scheme under Chapter 2 of Part 4 of the Act or would contravene any restrictions imposed by Section 67 of the Pensions Act 1995.

### 4. Investment

- (A) To acquire and dispose of any property or asset whether tangible or intangible, movable or immovable in any part of the world, along or together with others, whether or not it produces income, to enter into any contract or incur any obligation, to lend or borrow money or other property for any purpose (including acquiring assets), to grant any mortgage or charge over or give any right of recourse against any or all of the assets of the Scheme, to insure assets of the Scheme for any amount against any risk and to keep assets in nominee names.
- (B) The Trustees' powers of investment shall include all such powers which they could exercise if they were absolutely and beneficially entitled to the Fund.
- (C) The Trustees shall not directly or indirectly lend money:
  - (i) to a Member or to a person who is connected with a Member other than the Employers; or
  - (ii) to the Employers unless the loan is:
    - (a) utilised for the purpose of the borrower's Business, and
    - (b) for a fixed term not exceeding five years, and
    - (c) at a commercial rate of interest as prescribed by regulations, and
    - (d) evidenced by an agreement in writing which contains all the conditions on which it is made and,
    - (e) is secured by a first charge of at least equal value over the assets of the Employer or such other party as the Trustees may agree
- (D) The aggregate amount outstanding of any lending to an Employer and/or the Employers made in accordance with provision 4(C)(ii) shall not, at the date of the loan, exceed 50% of the market value at the time in question of all the assets of the Scheme.
- (E) The Trustees shall not directly or indirectly purchase, sell or lease any investment or asset from or to a Member or a person connected with a Member, other than on an arm's length basis and supported by an independent professional valuation obtained in writing.
- (F) The Trustees shall not directly or indirectly purchase, sell or lease any investment or asset from or to an Employer or an Associated Employer except in accordance with independent professional advice obtained in writing.
- (G) The Trustees shall not acquire, either directly or indirectly, shares in the Employer or the Employers of such market value as shall contravene the provisions of the Act.
- (H) The Trustees shall operate a separate account opened in their names with an institution authorised under the Banking Act 1987, or such other institution as may be approved by law. The signatories on any such account shall include an authorised signatory of the Professional Trustee.
- (I) Notwithstanding the above, no investments are permitted which would infringe the requirements of the Act.

## **5. Borrowing**

- (A) To raise or borrow any money upon such terms as they think fit and the Trustees may secure such money by charging all or any part of the Fund. Money so raised or borrowed shall be applied for all or any of the purposes of the Scheme including the purchase of any authorised investments of the Scheme.
- (B) Any power of the Trustees to borrow shall be restricted so that, at the time of any borrowing, the Trustees shall not have borrowed and not repaid an aggregate amount including the amount of that borrowing in excess of such sums as are prescribed by the Act or any regulations.

## **6. Nominees**

From time to time, at their discretion, to allow the whole or any part of the Fund to be held in the name or names of any persons or person or corporation (including any one or more of the Trustees themselves) as nominees or nominee for the Trustees, subject to such conditions and restrictions (if any) as the Trustees think fit, and to remunerate or pay any charges of such nominees or nominee out of the Fund as may, in the opinion of the Trustees, be proper.

## **7. Delegation**

- (A) To delegate the operation of any bank account in their name to the Professional Trustee plus any one or more of their number as they shall think fit.
- (B) Notwithstanding any rule of law to the contrary, by resolution to delegate to any persons or person (including, in cases where there is more than one Trustee, to any two or more of their number) or corporation the exercise of all or any powers conferred on such Trustees notwithstanding the fiduciary nature of such power or powers. Such powers may include the giving of a valid receipt and discharge for any money or other property payable, transferable, or deliverable to the Trustees.
- (C) To appoint one or more investment manager or agents to manage the investment of the Fund, subject to such terms and conditions as the Trustees may think fit, to exercise all or any of the powers or discretions of the Trustees in regards to the selection, making, changing and realisation of investments or arising from and concerned with holding of investments, including the operation of any bank account or accounts as are deemed necessary, and the Trustees shall have power to agree and pay to such investment managers or agent such remuneration as they shall think fit.

## **8. Appointment and Removal of Trustees**

To appoint at any time by deed or deeds a new or additional Trustee or Trustees of the Scheme and the trusts and purposes thereof and to remove one or more of the Trustees PROVIDED THAT any Trustee upon giving written notice to each of the other Trustees may retire as a Trustee of the Scheme. Upon giving such written notice, he shall be deemed to have been discharged from the trusts of the Scheme whether or not a replacement Trustee has been appointed.

## **9. Indemnity**

- (A) To claim all the indemnities conferred on trustees by law, and no trustee or director, employee or member of a body corporate comprising a trustee for the time being shall be liable for any acts or omissions not due to its or his own wilful neglect or default and the Employers shall keep the Trustees indemnified against the exercise of all the Trustees' powers and the application of the Trustees' discretion AND IT IS HEREBY DECLARED that the Trustees shall not be responsible for any loss occasioned by their acting on the advice or opinion (whether or not obtained by them) of the Actuary and any lawyer, broker, accountant, investment adviser or other suitable qualified person.

- (B) In addition, to indemnify the Professional Trustee from any liability including, any tax charge or penalty of any kind, loss or expense incurred in relation to the Scheme and for any judgement recovered against and paid by the Professional Trustee other than liability, loss, expense or judgement arising out of the Professional Trustee's own wilful and individual fraud, wrongdoing or neglect. Such indemnity shall be provided from the Fund or the other Trustees or Trustee of the Scheme (collectively or individually).
- (C) To be indemnified out of the Fund against any tax charge or other imposition or penalty of any kind raised against the Trustees.

#### **10. Trustees' Interests**

- (A) To exercise any power without it being invalidated or questioned on the grounds that the Trustees or any one of them had a direct or other personal interest in the mode or result of such decision or of exercising such power.
- (B) To receive any benefit accruing to him as a Member of the Scheme notwithstanding that he may from time to time be a Trustee or a director, employee or member of a body corporate which is a Trustee of the Scheme for the time being.
- (C) To enter into any transaction concerning the Scheme notwithstanding that one or more of the Trustees may be interested in this transaction other than as Trustee of the Scheme.

#### **11. Remuneration**

To charge and be paid reasonable remuneration for their services hereunder.

#### **12. Insurance**

- (A) To insure any asset comprised in the Fund on such terms as they shall think fit.
- (B) To pay premiums out of income or capital.
- (C) To use any insurance money received to restore the asset or if this is not possible to apply it as if it were the proceeds of sale of the asset.

#### **13. Augmentation of Benefits**

From time to time, having taken appropriate professional advice, to augment out of the existing assets of the Fund the benefits to which any person or class of persons may be entitled under the Scheme PROVIDED THAT the prior agreement of any such person or class of persons has been obtained.

### **C GENERAL PROVISIONS**

#### **14. Accounts**

The Trustees shall cause true and full accounts to be kept of all money passing through their hands and also a record of all persons receiving benefits and of all other matters proper to be recorded so as to show the full facts relating to the Scheme.

#### **15. Audit and Inspection of Accounts**

The Trustees shall if required by law or in the event of any dispute concerning the accounts cause the accounts of the Scheme to be audited by the Auditor and shall make and sign a report on such accounts which shall be open to inspection at the address referred to in the report.

## **16. Expenses**

All expenses in connection with the establishment, administration and management of the Scheme shall be paid by the Founder or, failing that, out of the Fund. In the event that any such expenses remain outstanding for more than 6 months the Professional Trustee, having first served notice on the other Trustee or Trustees as the case may be of not less than 1 month, may at its discretion make such arrangements as are deemed necessary for settlement of any sums due out of the Fund. Such notice will be deemed to have been served if it has been sent to the other Trustee's or Trustees' last known address. Notwithstanding any provision to the contrary, any instruction signed on behalf of the Professional Trustee in connection with such expenses shall be honoured by the Trustees' bankers as if the same had been authorised by all of the Trustees acting unanimously.

## **17. Resolutions**

A resolution in writing signed by all the Trustees shall be as valid and effective as if it had been passed at a meeting of the 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 Trustees.

## **18. Surplus Assets**

If the advice of the Actuary indicates that there is a measure of surplus assets in the Fund the Trustees shall have power to refund surplus assets to the Employers in such proportions as are considered appropriate by the Trustees, having received prior written agreement from HMRC. The Trustees will deduct from the refunds any tax for which they are liable under the Act.

No such power shall be exercised until notice has been given to all Members of the Scheme of the proposal to exercise the power, in accordance with any requirements prescribed by law.

## **19. Notices**

- (A) For the purposes of the Scheme any notice to any person in receipt of any pension or annuity or entitled to any other benefit under the Scheme may be given by sending the same through the post in a letter addressed to him at his last known place of abode and any notice so sent shall be deemed to be served on the fifth day following that on which it is posted.
- (B) Any notice to be given to the Trustees including notice of the exercise of any option under the Scheme shall be in writing and addressed to them at the address referred to in the Scheme's latest report and delivered there or sent by pre-paid post subject to the Trustees' discretion to make such other arrangements as may seem suitable.

## **20. Place of Residence**

Every person shall give notice in writing to the Trustees of his place of residence at the time he becomes entitled to a pension or annuity out of the Fund and thereafter shall give immediate notice of any change of residence.

## **21. Place of Payment**

Pensions and annuities are payable only at the address referred to in the Scheme's latest report and any agreement for a payment through the post or otherwise which may in any particular case be made by the Trustees shall be at the risk of the recipient concerned.

## **22. Evidence Wanted**

Before making or sanctioning any payment out of the Fund the Trustees may require the production of a certificate (or such other evidence as they may think fit) of birth, marriage, continued survival or death of a Member or any other person entitled to benefit from the Scheme or the widow or Civil Partner or dependant of any of them or the identity of any person named in a certificate or any other material fact.

### **23. Error in Statement**

If any person or the widow or Civil Partner or Dependant of any of them shall make any mis-statement as to any of the matters referred to in the preceding provision, the Trustees, on discovering such mis-statement, shall have power to make such arrangements as they shall consider just by way of adjustment or cancellation of any pension, annuity or other money payable out of the Fund and shall have power to sue for the repayment of any money to which there is no valid entitlement.

### **24. Actuarial Investigations**

Actuarial investigations into the condition of the Scheme and of the Fund shall be made by the Actuary upon the request of the Trustees and at such intervals as they deem appropriate.

### **25. Liability of Employers**

The Employers shall be under no liability whatsoever in connection with the Scheme except as expressly provided in the Rules.

### **26. Off-set for Crime or Fraud**

If a Member has a monetary obligation to his Employer arising out of his criminal or fraudulent act or omission the Employer may require the benefits in respect of him (other than benefits arising out of a transfer payment from another occupational or personal pension scheme or from a "buy-out" policy or other annuity or assurance policy) to be reduced by an amount that the Trustees determine on actuarial advice to be equivalent to the obligation. If the obligation is greater than the value of the benefits which may be reduced the benefits will cease to be payable. If the Employer requests, the Trustees will pay to the Employer the amount of the obligation or, if less, the value of the reduction in benefits. The Member will be given a certificate specifying the amount of the obligation and of the reduction in benefits. If the amount of the obligation is disputed, no reduction in benefits will be made until the obligation has become enforceable under the order of a court or arbitrator.

### **27. No Restriction on Dismissal**

Nothing in the Scheme shall fetter the right of any Employer to dismiss any employee, neither shall any pension or benefit to which a Member or former Member might claim to be entitled under the Scheme be used as a ground for claiming or increasing any damages in any action brought by such Member or former Member against an Employer.

### **28. Claims - Limitation**

No person, whether a Member or a former Member or a person claiming through or under a Member or a former Member, shall have any claim right or interest under the Scheme or any claim upon or against the Trustees or an Employer except under or in accordance with the terms of the Rules.

### **29. Inspection of Documents**

Any person entitled to benefit under the Scheme shall be entitled to inspect copies of such parts of the Rules as apply to that person and copies of undertakings given by the Trustees at the address referred to in the Scheme's latest report.

### **30. Notification of Amendments**

Copies of every amendment made to the Rules shall be sent by the Trustees as soon as practicable after the amendment is made to the Employers and shall be sent to each Member affected by such amendments.

### **31. Adherence**

Any Employer which desires to participate in the Scheme may enter into agreement with the Trustees by deed covenanting, inter alia, to observe and perform the terms of the Rules as from time to time lawfully amended in so far as they are, or ought to be, performed or observed by that Employer and that Employer shall thereby participate in the Scheme as from the date specified in such agreement.

## **32. Withdrawal**

The Employers or any one or more of them at any time may terminate liability on their or its part to contribute to the Scheme by giving written notice in that behalf to the Trustees.

## **D MEMBERSHIP**

### **33. Eligibility**

Membership of the Scheme is at the discretion of the Trustees and may include an Employee or such other person as may from time to time be eligible to join a registered pension scheme under the Act.

### **34. Evidence of Age**

Every Employee who becomes a Member of the Scheme shall provide such evidence of age and family circumstances and changes in circumstances as the Trustees may require.

## **E CONTRIBUTIONS**

### **35. Employer's Contributions**

The Employers shall pay such annual or other contributions as they shall decide in respect of their Employees or former Employees.

### **36. Member's Contributions**

A Member may pay contributions in any tax year up to:

- (a) £3,600 or such other amount set down by Treasury Order issued under Section 190(4) of the Act or
- (b) The amount of the Member's relevant UK earnings within the meaning of Section 189(2) of the Act.

### **37. Non Member Contributions**

If the Trustees agree, payments may be made by a person or persons other than the Member, provided the payments are being made on behalf of the Member and the Member or Member's legal guardian is aware and has consented to the payment.

### **38. Payment of Contributions**

The payment of any contribution may be made in money form or in specie in such manner as the Trustees agree provided the status of the scheme as a registered pension scheme is not prejudiced.

### **39. Allocation of Contributions**

- (A) Any contributions paid by or on behalf of the Member shall be allocated to the Member's Fund.
- (B) In the absence of any direction by the Employer paying the contribution, such contributions shall be allocated entirely at the discretion of the Trustees at such time as they deem appropriate. However, before any such allocation shall be made, the Trustees shall first obtain the Member's consent to the allocation.

### **40. Application of Contributions**

The accumulated value of contributions to the Scheme shall be used to provide benefits in accordance with the Rules except so far as they are used to meet the administrative costs of the Scheme and to pay any fees.

### **41. Application of Contributions to Provide Life Insurance**

The Trustees may, with the agreement of the Member, apply part of the Member's Fund or any contributions paid in a Tax Year as premiums under a life insurance contract with an Insurance Company to provide a lump sum on the death of a Member before a specified age.

## **42. Excess Contributions**

If the contribution limits set out in provisions 35, 36 and 37 above exceed the limits set down by HMRC in any Tax Year the Trustees shall ensure the repayment of the tax relief and any net amount, and the value of the Member's Fund shall be adjusted accordingly, unless the Member has unused tax relief from previous tax years and instructs the Trustees accordingly. Any such payment may take account of expenses and accrued interest.

## **F BENEFITS**

### **43. Retirement Date**

The Member's Retirement Date shall be the date as agreed between the Member and the Trustees, falling on or after the Minimum Retirement Date on which the Member's Fund is applied to provide benefits in accordance with provision 45.

### **44. Incapacity**

If a Member becomes permanently incapacitated, the Trustees may at their discretion agree a Retirement Date earlier than the Minimum Retirement Date. For the purposes of this provision a Member will be deemed to be permanently incapacitated if the Trustees have satisfied themselves that the Member is, and will continue to be, incapable of carrying on his occupation due to physical or mental impairment and the Member has in fact ceased to carry on that occupation.

### **45. Lifetime Annuities**

- (A) On or at any time after the Member's Retirement Date the Trustees shall apply such part of the Member's Fund as is agreed with the Member, less any lump sum benefit payable under provision 48, to the purchase of an annuity with an Insurance Company of the Member's choice. If the Member fails to make any such choice no later than a date prescribed by the Trustees then the Trustees will select the Insurance Company from which the annuity is to be secured.
- (B) The annuity shall be payable for the life of the Member and may be guaranteed for a period of up to ten years, notwithstanding the death of the Member within that period.
- (C) The Member may select for the annuity to be:
  - (i) A level annuity, a variable annuity or an annuity which increases in payment by a fixed percentage or on such other basis as agreed at the outset with the Insurance Company and
  - (ii) To be paid monthly, quarterly, half yearly or annually, in advance or in arrears.
- (D) In the event of the Member failing to select the basis of the annuity under (C) above within a time period prescribed by the Trustees, the Trustees shall, at their discretion, determine the basis of the annuity having consideration of all of the circumstances of the Member.
- (E) If the Member's annuity has a guarantee under (B) above, the Member may, before commencement of the annuity, elect in writing to the Trustees, that such annuity shall cease after his death before the expiry of the guarantee in the event of either:
  - (i) The marriage of the Annuitant or
  - (ii) The Annuitant attaining age 18 or ceasing full time education or vocational training if later.

### **46. Drawdown Pension**

- (A) The Member may, with the agreement of the Trustees, defer the purchase of a lifetime annuity under provision 45 above, even if the Lump Sum Benefit payable under provision 48 has been taken, and elect to receive a pension from:
  - (i) One or more short term annuities in accordance with (B) below, or
  - (ii) Income withdrawals in accordance with (C) below, or



- (iii) A combination of (i) and (ii) above.
- (B) A short term annuity may be secured with all or part of the Member's Drawdown Fund and must satisfy the following conditions:
  - (i) It shall be secured with an Insurance Company of the Member's choice unless the Member fails to make such a choice within a time period prescribed by the Trustees in which case the Trustees will select the Insurance Company from which the short term annuity is to be secured.
  - (ii) It shall be payable for a term not exceeding five years.
  - (iii) The annuity may be level, variable or increasing. It shall be paid in instalments not less frequently than annually, and may be paid in advance or arrears.
  - (iv) If the short term annuity has a guarantee the Member may, before commencement of the annuity, elect in writing to the Trustees that such annuity shall cease after his death but before the expiry of the guarantee in the event of either:
    - (a) The marriage of the Annuitant, or
    - (b) The Annuitant attaining age 18 or ceasing full time education or vocational training if later.
  - (v) The amount of annuity falls within the limit in (D) below.
- (C) The Member may make income withdrawals directly from the Drawdown Fund. Such withdrawals shall be made at such frequency as the Member and the Trustees agree and can be paid in advance or in arrears.
- (D) The total Drawdown Pension which can be paid in any twelve month period beginning on the date on which that part of the Member's Fund becomes designated as Drawdown Fund shall not exceed the amount of the annuity which could have been purchased at outset calculated by reference to the amount of Drawdown Fund, excluding any lump sum paid under provision 48, and the tables of annuity rates published for this purpose by the Government Actuary's Department, or such greater amount as may be prescribed by HMRC, unless the Member is exempt from this limit having satisfied the conditions set out in Section 165 (3A) of the Act.
- (E) The Trustees may undertake such review of the limits set out in (D) above, provided the review satisfies the conditions of Schedule 28 of the Act.
- (F) The Member shall notify the Trustees in writing when he wishes Drawdown Pension to cease and for a lifetime annuity to be secured.

#### **47. Scheme Pension**

- (A) As an alternative to either a lifetime annuity or Drawdown Pension, the Trustees may, at their discretion, grant a Scheme Pension to the Member in accordance with Schedule 28 of the Act.
- (B) The amount of any Scheme Pension shall be determined by the Trustees, having taken appropriate actuarial advice.
- (C) The Scheme Pension shall be payable at such frequency as is agreed between the Trustees and the Member, but no less frequently than annually.
- (D) The Scheme Pension can be guaranteed for a period of up to ten years from commencement.
- (E) At the Trustees' discretion the Scheme Pension can be level or can increase in payment by a fixed percentage, in line with the Index or on such other basis as is agreed at outset.
- (F) If the Scheme Pension has a guarantee under (D) above the Member may, before commencement of the Scheme Pension, elect in writing that such Scheme Pension shall cease after his death before the expiry of the guarantee in the event of either:
  - (i) The marriage of the Annuitant, or

- (ii) The Annuitant attaining age 18 or ceasing full time education or vocational training if later.

#### **48. Pension Commencement Lump Sum**

Within twelve months of the commencement of any benefits the Member may elect to receive part of his Member's Fund as a tax free lump sum. The amount of the lump sum shall not exceed 25% of the Member's Fund being designated to provide benefits or such greater amount as is allowable under the Act.

#### **49. Trivial Benefits**

If, on or after the Member's 60<sup>th</sup> birthday, a benefit by way of pension becomes payable and the pension or the pension value of any benefits not in pension form immediately payable under the Scheme would be Trivial, the Trustees may commute that benefit by payment to the person concerned of a lump sum subject to the conditions set out in Paragraph 7 of Schedule 29 of the Act.

#### **50. Exceptional Ill-health Lump Sum**

A Member who is in exceptional circumstances of serious ill health (proved to the satisfaction of the Trustees), may, with the consent of the Trustees, receive a lump sum equal to the entire value of his entitlements under the Scheme, subject to the conditions of Paragraph 4 of Schedule 29 of the Act.

#### **51. Lump Sum Death Benefit**

- (A) In the event of the Member's death the whole of the Member's Fund or Drawdown Fund, together with the proceeds of any life insurance policy arranged under provision 41, shall be paid as one or more lump sums in accordance with Schedule 29 of the Act.
- (B) Any lump sum death benefit payment under the Scheme shall be held on Discretionary Trusts.

#### **52. Dependants' Annuities**

- (A) As an alternative to receiving a lump sum payment under provision 51 above, any Dependant may elect in writing to the Trustees within such time scale as prescribed by the Trustees, for his Dependant's Fund to be applied to a lifetime annuity with an Insurance Company of his choice.
- (B) Annuities may be paid to one or more Dependants and can be paid irrespective of whether any annuity is being paid to a surviving spouse or Civil Partner.
- (C) Any annuity payable under this provision:
- (i) Shall be a level annuity, a variable annuity or an annuity which increases in payment by a fixed percentage or on such basis as agreed at the outset with the Insurance Company.
  - (ii) Shall be paid monthly, quarterly, half yearly or annually, in advance or in arrears.
  - (iii) May cease on marriage.
  - (iv) Where it is paid solely by virtue of the Dependant being under age 23, cease on the attainment of that age.
- (D) The payment of an annuity to a surviving spouse may be deferred at the written request of the Annuitant.
- (E) If the Dependant does not select an Insurance Company within a time period specified by the Trustees, then the Trustees in their absolute discretion, having regard to the circumstances of the Dependant, shall secure such an annuity on such terms and with such an Insurance Company as they think fit.

#### **53. Dependant's Drawdown Pension**

- (A) As an alternative to a lump sum payment or a lifetime annuity under provision 51 or 52 above, a Dependant may elect one or more short term annuities or income withdrawal.
- (B) A short term annuity may be secured with all or part of the Dependant's Fund and must satisfy the following conditions:

- (i) It shall be secured with an Insurance Company of the Dependant's choice unless the Dependant fails to make such a choice within a time period prescribed by the Trustees in which case the Trustees will select the Insurance Company from which the short term annuity is to be secured.
- (ii) It shall be payable for a term not exceeding five years.
- (iii) The annuity shall be level, variable or increasing, it shall be paid in instalments not less frequently than annually, and may be paid in advance or arrears.
- (iv) The amount of the annuity shall fall within the limit in (D) below.
- (C) The Dependant may make income withdrawals directly from the Dependant's Fund. Such withdrawals shall be made at such frequency as the Dependant and the Trustees agree and shall be paid in advance or in arrears.
- (D) The total Drawdown Pension which can be paid in any twelve month period beginning with the date on which that part of the Dependant's Fund became designated to provide benefits to the Dependant shall not exceed the amount of the annuity which could have been purchased at outset calculated by reference to the amount of Dependant's Fund and the tables of annuity rates published for this purpose prepared by the Government Actuary's Department or such greater amount as may be prescribed by HMRC, unless the Dependant is exempt from this limit having satisfied the conditions set out in Section 165 (3A) of the Act. Such pension shall be reviewed in accordance with Schedule 28 of the Act.
- (E) If the Dependant dies before a lifetime annuity has been secured the Dependant's Fund shall be paid as one or more lump sum benefits under the provisions of Schedule 29 of the Act in accordance with provision 51.
- (F) The Dependant shall notify the Trustees in writing when he wishes Dependant's Drawdown Pension to cease and for a lifetime annuity to be secured. No income withdrawals shall be made after the Dependant ceases to qualify as a Dependant.

#### **54. Dependant's Scheme Pension**

- (A) In the event of the Member's death the Trustees may, at their discretion, provide a Scheme Pension to such Dependents as they decide.
- (B) The amount of any Scheme Pension shall be determined by the Trustees, having taken appropriate actuarial advice.
- (C) The Scheme Pension shall be payable at such frequency as is agreed between the Trustees and the Dependant, but not less frequently than annually.
- (D) At the Trustees' discretion the Scheme Pension can be level or can increase by a fixed percentage, in line with the Index or on such other basis as is agreed at outset.

#### **55. Maximum Dependents' Annuities**

If the Member dies after attaining age 75 the aggregated annual amount of all annuities payable to all Dependents shall not exceed the highest annual amount of the annuity payable to the Member at the date of death.

#### **56. Death of a Dependant**

- (A) In the event of the death of a Dependant, the whole of the Dependant's Fund may be applied as lump sum benefit in accordance with Schedule 29 of the Act.
- (B) Any lump sum benefit shall be paid at the sole discretion of the Trustees.

## **G PRESERVATION OF BENEFITS ON WITHDRAWAL FROM SERVICE**

### **57. Entitlement to Short Service Benefits**

A Member who has been an active Member of the scheme but leaves employment with an Employer before his Retirement Date shall be entitled to preserved benefits ("Short Service Benefits").

### **58. Payment of Short Service Benefits**

Short Service Benefits will be payable at the Member's Retirement Date and will be calculated by reference to the Member's Fund with the same options as described in section F.

### **59. Short Service Refund Lump Sum**

- (A) If a Member has been an employee of an Employer for at least three months but less than two years and ceased such employment at least one year before Retirement Date he shall be entitled to a refund of his contributions.
- (B) If such a Member fails, within a reasonable time, to exercise his right to a refund under (A) above the Trustees may at their discretion pay such a refund, less any tax due.

### **60. Notification to Leaving Member**

At the termination of any period of employment with an Employer the Member's Fund shall be notified to the Member.

### **61. Early or Late Payment of Short Service Benefits**

A Member who is entitled to Short Service Benefits may apply to the Trustees to receive benefits:

- (i) At a date not earlier than the Minimum Retirement Date or,
- (ii) On Incapacity, at any age

### **62. Purchase of Annuity Contract**

The Trustees may purchase an annuity or a Member may request that the Trustees purchase an annuity under the terms of these provisions in substitution for benefits arising under the preceding provisions of this section

### **63. Transfer-out Payment**

A Member who is entitled to Short Service Benefits may apply to the Trustees to have a transfer payment made on his behalf under the terms of section H.

## **H TRANSFERS**

### **64. Transfers Out**

- (A) Where a person becomes a member of another registered pension scheme as defined in Section 150 of the Act or a Qualifying Recognised Overseas Scheme ("the Receiving Scheme") the Trustees may at the request of the Member make a transfer in cash or in specie as the Trustees at their discretion decide to the Receiving Scheme subject to the following conditions:
  - (i) The amount of the transfer shall be determined by the Trustees after seeking actuarial advice where appropriate.
  - (ii) The Receiving Scheme shall be a registered pension scheme under Section 150 of the Act or a Qualifying Recognised Overseas Scheme.
  - (iii) Any expenses which may be payable by the Trustees in consequence of the transfer may be deducted in arriving at the amount of the transfer.
- (B) A Member may choose that different parts of the Member's Fund be transferred to one or more Receiving Schemes, but they must choose that the whole of the Member's Fund be transferred unless the Trustees agree to allow a partial transfer.

- (C) Any Dependant entitled to a Dependant's Fund under the scheme may also request a transfer out to a registered pension scheme or Qualifying Recognised Overseas Scheme in accordance with provision (A) and (B) above.
- (D) A person in respect of whom a transfer is made shall not be entitled to any benefit under the Scheme unless only a partial transfer is made and the Trustees shall not be in any way responsible for or required to inquire into the use and application of the part of the Fund so transferred.

#### **65. Transfer Received**

- (A) The Trustees may accept a transfer in cash or in specie from the trustees of a registered pension scheme as defined in Section 150 of the Act or from a Recognised Overseas Pension Scheme of which a Member was formerly a member ("the Transferring Scheme") and grant Transfer Credits from this Scheme as appropriate PROVIDED THAT the Trustees shall obtain a certificate from the trustees of the transferring scheme stating the amount (if any) which is to be regarded as Member's Credit and shall treat as Member's Credit to the Scheme for the purposes of any transfers out the equivalent of the amount so certified.
- (B) The Trustees may accept all or any part of the assets of a registered pension scheme ("the Other Scheme") which has been operating for the benefit of the Employees of an Employer or its predecessor in business and assume liability for payment of pensions to Employees who do not otherwise become Members. After acceptance of such a transfer payment, annuities or pensions already in course of payment in the Other Scheme shall be continued at the same rate and on the same basis from the Scheme unless the Trustees direct otherwise. Likewise deferred annuities shall be preserved at the same amount.

### **I RECONSTRUCTION AND WINDING UP**

#### **66. Determination of the Scheme**

The Scheme shall be wound up and the trusts thereof shall be determined:

- (A) at the expiration of the Perpetuity Period unless there shall have been legislation making it lawful for the trusts of the Fund to continue for an indefinite time or in perpetuity or
- (B) if the Trustees unanimously pass a resolution to wind up the trusts of the Fund or
- (C) at the sole discretion of the Professional Trustee in the event that any fees incurred in the establishment, administration or management of the Scheme remain unpaid after a period of 6 months commencing on the date of the relevant invoice.

#### **67. Change of Founder**

If an order or effective resolution is passed for the winding up for the purpose of reconstruction of the Founder or the Founder is absorbed by another corporation or in any other circumstance where the Trustees consider it appropriate, the Trustees may make such arrangements as they think fit for the continuance of the Scheme by reference to a new Employer in place of the Founder. The Rules shall thereafter take effect in all respects as if another Employer instead of the Founder had been a party to them as applicable and such successor shall become the Founder for the purposes of the Rules.

## **68. Cessation of Founder**

If circumstances arise in which there is no Founder in relation to the Rules and there has been no resolution under provision 66(B) for the Scheme to be wound up and there are no other companies participating in the Scheme then all of the powers previously exercisable by the Founder shall vest in the Trustees who shall continue to administer the scheme for the benefit of the persons entitled to benefits under the Scheme on such terms and conditions as the Board of Inland Revenue agree and for such period as the Trustees may think fit, provided such periods shall not offend the law relating to perpetuities under Section 69 of the Social Security Act 1973.

## **69. Winding up**

If the trusts are to be terminated under the terms of provision 66:

- (A) The Fund shall be realised and after payment of the costs and expenses of the termination each Member's Fund not already applied to a lifetime annuity will be applied as follows:
- (i) By way of transfer to another Receiving Scheme in accordance with provision 63 or,
  - (ii) If the Member's Fund would secure a trivial pension then by payment of an immediate lump sum in accordance with provision 49 or,
  - (iii) If the Member had died prior to termination, the immediate payment of any outstanding sums under the Discretionary Trusts and, in respect of any remaining sum in the Member's Fund, the provision of additional benefits under provision 51 or,
  - (iv) If the Member is in receipt of a pension, the provision of additional retirement benefits including contingent death benefits or,
  - (v) If the Member is not in receipt of a pension, the provision of a deferred pension and contingent death benefits or, at the Member's request, of immediate retirement benefits if the Member has attained his Minimum Retirement Date.
- (B) All pensions to Members will be secured by purchasing any annuity policies in the name of the Member and Dependant's pensions in payment will be similarly secured in the name of the Dependant. Existing annuity policies secured will be assigned to the appropriate beneficiary.
- (C) The Trustees will determine the allocation of contingent death benefits in the absence of arrangements being able to be made with any Member.
- (D) If any surplus assets remain after the allocation of each Member's Fund this shall be returned to the Member's Employer or Employers as the Trustees determine, subject to provision 18.

## **70. Withdrawal of an Employer**

If and whenever:

- (A) an Employer ceases to be owned and controlled by the Member or
- (B) an Employer gives notice to terminate its liability or
- (C) the continued participation in the Scheme of an Employer would prejudice the status of the Scheme as a registered pension scheme under Section 150 of the Act, the Trustees will set apart out of the Fund investments and cash the Member's Fund applicable to those Members then in the Service of that Employer or, if the Trustees so decide, such members together with Members formerly in the Service of that Employer or its predecessors in business and beneficiaries whose title to benefits derives from such Members. The investments and cash so set apart shall at the option of the Trustees subject to the terms of the Scheme and subject also to payment of costs charges and expenses properly payable thereout:
  - (i) Be retained to meet payment in accordance with the Rules for those Members or,
  - (ii) Be transferred subject to provision 63 or,
  - (iii) Be applied as if the Scheme were being wound up in accordance with provision 69.

## **J PENSION SHARING ON DIVORCE**

### **71. Pension Credit Benefits**

- (A) The Trustees shall have absolute discretion in the discharge of any liability in respect of any Ex-Spouse acquiring a Pension Credit, including:
- (i) Inviting the Ex Spouse to become an Ex Spouse Participant.
  - (ii) Making a transfer of the Pension Credit Benefit to another registered pension scheme or a Qualifying Recognised Overseas Scheme.
  - (iii) Applying an amount equivalent to the Pension Credit Benefit towards the purchase of an appropriate policy with an Insurance Company of his choice.
- (B) If the Trustees invite the Ex Spouse to become an Ex Spouse Participant they shall be entitled to all of the rights and benefits of the Scheme as a Member.
- (C) Where any Pension Credit Rights are granted in relation to the Scheme, the Member's Fund relating to the Member who was formerly married to the Ex Spouse shall automatically incur a corresponding Pension Debit.
- (D) The Trustees may at their absolute discretion reduce either or both the Pension Credit Rights or the Member's Fund subject to the corresponding Pension Debit by an amount representing all or part of any costs, charges or expenses incurred with the Pension Credit.

## **K MISCELLANEOUS PROVISIONS**

### **72. Arrangements**

The Member's Fund shall constitute a single arrangement unless the Member and the Trustee agree otherwise. Notwithstanding the above, any transfers into the Scheme in respect of benefits already in payment shall be treated as creating a separate arrangement for the Member.

### **73. Cessation of Payments**

The Trustees may decide that any person who is entitled to a payment under the Scheme shall cease to have a claim to such 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 Trustees who shall have taken all reasonable steps to ascertain the address.

### **74. Lifetime Allowance Charge**

In the event that a Lifetime Allowance Charge (pursuant to Section 214 of the Act) is due in respect of a Member the Trustees will permanently reduce the benefits payable in respect of the Member under the Fund by the amount of the Lifetime Allowance Charge. The Trustees may at their discretion require the Member to accept a Lifetime Allowance Excess Lump Sum (as defined in Paragraph 11 of Schedule 29 of the Act 2004) in respect of the balance of the Member's entitlement in excess of the Lifetime Allowance.

### **75. Form of Notice**

Where these provisions provide a Member or any other person with any choice the Trustees may impose any requirements as to the period or form of notice to be given by or to the Member provided these do not conflict with any other requirements set out in these provisions.

**76. Benefits Not Assignable**

The pensions or other benefits payable or to be paid under the Scheme or under an annuity purchased by the Trustees are not assignable or surrenderable and shall cease to be paid or payable if the recipient or prospective recipient becomes bankrupt or attempts to alienate, charge or anticipate any benefit or any part of it or does or suffers any act or thing whereby, whether by operation of law or otherwise, if belonging to the recipient absolutely, it would be or become wholly or in part payable to another person. If through the operation of this provision, a benefit ceases to be paid or payable, the Trustees may, in case of hardship, apply it or any part of it from time to time for the support or maintenance of the recipient or his spouse or children or remoter issue or any of them PROVIDED THAT in no case shall any payment be made to an assignee or purported assignee PROVIDED ALSO THAT nothing in the Rules shall be deemed to prevent any person from effectively bequeathing by Will any money in which he may have a transmissible interest. Notwithstanding the above, the assignment of part or all of the Member's retirement benefits or rights to benefits under the Scheme to his Ex Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision or the assignment of part or all of the Ex Spouse Participant's benefits or rights to benefits under the Scheme to his Ex Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision shall be permissible.

**77. Deduction of Tax**

The Trustees shall be entitled to deduct from any payment made to any person under the Scheme a sum equal to any tax for which the Trustees may become liable in consequence of such payments.