

THE EQUITABLE LIFE ASSURANCE SOCIETY

- and -

THE PRUDENTIAL ASSURANCE COMPANY LIMITED

SCHEME

for the transfer of the with-profits annuity business of The Equitable Life Assurance Society to The Prudential Assurance Company Limited pursuant to Part VII of the Financial Services and Markets Act 2000

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CONTENTS

PARAGRAPH	PAGE No
PART A - DEFINITIONS AND INTERPRETATION	1
1. DEFINITIONS AND INTERPRETATION	1
PART B – INTRODUCTION	2
2. INTRODUCTION	2
PART C - TRANSFER	3
3. TRANSFER OF ANNUITIES IN PAYMENT, ASSETS AND LIABILITIES	3
4. CONTINUITY OF PROCEEDINGS	4
5. PREMIUMS AND MANDATES	4
6. RIGHTS AND OBLIGATIONS UNDER THE TRANSFERRING POLICIES	5
7. EXCLUDED POLICIES	8
8. DECLARATION OF TRUST BY THE TRANSFEROR	9
9. INDEMNITIES	10
PART D - ALLOCATIONS ON THE EFFECTIVE DATE	13
10. ALLOCATION OF THE TRANSFERRING POLICIES	13
11. ALLOCATION OF ASSETS	13
12. ALLOCATION OF LIABILITIES	13
PART E - MANAGEMENT OF THE TRANSFERRING POLICIES	15
13. ASSET SHARE OF THE TRANSFERRING POLICIES	15
14. PRINCIPLES OF FINANCIAL MANAGEMENT	15
15. THE ESTABLISHMENT OF THE TRANSFERRING POLICIES SMOOTHING ACCOUNT	15
PART F - ADJUSTMENT OF ALLOCATIONS MADE AS AT THE EFFECTIVE DATE	16
16. ADJUSTMENT PAYMENTS AND AUGMENTATION	16
PART G - MISCELLANEOUS PROVISIONS	20
17. EFFECTIVE DATE	20
18. MODIFICATIONS OR ADDITIONS	20
19. COSTS AND EXPENSES	20
20. THIRD PARTY RIGHTS	20
21. GOVERNING LAW	21
SCHEDULE 1	22
DEFINITIONS AND INTERPRETATION	22
SCHEDULE 2	46
PRINCIPLES OF FINANCIAL MANAGEMENT	46
1. The Transferring Policies Bonus Series	46
2. Income after the Effective Date	46
3. Maintenance of separate Asset Shares for the Transferring Policies	46

4.	Exhaustion of Aggregate Asset Share over the lifetime of the Transferring Policies	47
5.	Investment return of the WPSF Asset Pool to be credited to the Transferring Policies	47
6.	Mortality experience	48
7.	Smoothing	52
8.	Deferred Cost Policies	56
9.	Charges	56
10.	Changes in charges for guarantees	57
11.	Amendment of terms of management of the Transferring Policies	59
12.	Application to Excluded Policies	59
13.	Interim arrangements	59
14.	Application of Uplift	60
15.	Relaxation of the Scheme	60
16.	Interest in the inherited estate of the Transferee WPSF	61
	SCHEDULE 3	62
	ADJUSTMENTS TO ASSETS INCLUDED ON THE ASSETS LIST	62
	SCHEDULE 4	64
	RESERVING BASES	64
	PART I: CORE RESERVING BASIS	64
	PART II: STOCHASTIC RESERVING BASIS	66
	SCHEDULE 5	67
	ADJUSTMENT AND AUGMENTATION	67
	SCHEDULE 6	76
	INTERIM ARRANGEMENTS	76
	SCHEDULE 7	77
	DISPUTE RESOLUTION PROCEDURE	77

PART A - DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

The definitions and principles of interpretation set out in Schedule 1 shall apply in this Scheme.

PART B – INTRODUCTION

2. INTRODUCTION

- 2.1 Each of the Transferor and the Transferee has permission under Part IV of the FSMA to carry on Long-Term Insurance Business of the same classes as the Transferring Policies.
- 2.2 It is proposed that the Transferring Business, including all of the Transferring Policies, the Transferring Assets, the Transferring Liabilities, the Residual Assets and the Residual Liabilities, shall, in accordance with this Scheme, be transferred to the Transferee.
- 2.3 The amount of the assets attributable to the WPA Business on the Effective Date is the WPA Allocated Amount. The WPA Allocated Amount will be used to fund:
- (a) the transfer to the Transferee of the Aggregate Initial Asset Share Transferring Assets on the Effective Date;
 - (b) the transfer to the Transferee of the Up-front Guarantee Charge Transferring Assets on the Effective Date;
 - (c) the transfer to the Transferee of the Mortality Premium Transferring Assets on the Effective Date; and
 - (d) the payment to the Transferee on the Adjustment Payment Date (when the precise amount of the WPA Allocated Amount has been determined) of certain adjustment payments necessary to ensure that the appropriate total amount is transferred to the Transferee, including to fund any augmentation of the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies and, for the purposes of the Excluded Policies Reassurance Agreement, the Excluded Policies.

For the avoidance of doubt, no Excluded Assets and no Excluded Liabilities will transfer to or be held on trust for the Transferee under this Scheme but instead will remain with the Transferor.

- 2.4 The Transferor and the Transferee have agreed that the Transferor shall only transfer to the Transferee its rights and liabilities under the Multi-Segment Policies to the extent that they relate to the Transferring Policies, as described in paragraphs 6.6 and 6.7. Accordingly, the Transferor and the Transferee shall, with effect from the Effective Date, become co-insurers of the Multi-Segment Policies with the Transferee being the insurer of the Transferring Policies and the Transferor being the insurer of those parts of the Multi-Segment Policies which are not Transferring Policies.

PART C - TRANSFER

3. TRANSFER OF ANNUITIES IN PAYMENT, ASSETS AND LIABILITIES

3.1 On and with effect from the Effective Date each:

- (a) Transferring Policy; and
- (b) Transferring Asset,

and, in each case, all the interest of the Transferor in it shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee.

3.2 On and with effect from the Subsequent Transfer Date applicable thereto, each Residual Asset and all the interest of the Transferor in it shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee.

3.3 On and with effect from the Effective Date, each Transferring Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of the Transferee and shall cease to be a liability of the Transferor.

3.4 On and with effect from the Subsequent Transfer Date applicable thereto, each Residual Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of the Transferee and shall cease to be a liability of the Transferor.

3.5 The transfers made pursuant to paragraphs 3.1 to 3.4 inclusive shall have effect notwithstanding any provision to the contrary in any agreement or arrangement with any person and whether or not the Transferor and the Transferee have capacity to effect the same.

3.6 On and with effect from the Effective Date or Subsequent Transfer Date, as the case may be, and without prejudice to any other provision of this Scheme and without prejudice to the entitlement of the Transferor to any amount received by it prior to the Effective Date, all references to the Transferor in any contract between the Transferor and any other party, or in any document or instrument, to the extent evidencing title to or the benefit or burden of the Transferring Policies, the Transferring Assets, the Residual Assets, the Transferring Liabilities and the Residual Liabilities shall, in so far as they are transferred to the Transferee, be read and construed as if the same were references to the Transferee so that such contract, document or instrument shall operate as if such references had always been to the Transferee rather than the Transferor.

3.7 The Transferee shall accept without investigation or requisition such title as the Transferor shall have at the Effective Date to the Transferring Policies and the Transferring Assets and, at any Subsequent Transfer Date, to the Residual Assets then transferred.

3.8 No Excluded Assets or Excluded Liabilities shall be transferred to or vested in the Transferee under or by virtue of the terms of this Scheme.

3.9 The Transferring Policies, Transferring Assets, Residual Assets, Transferring Liabilities and Residual Liabilities shall be allocated in accordance with Part D (Allocations on the Effective Date).

4. **CONTINUITY OF PROCEEDINGS**

4.1 On and with effect from the Effective Date, any proceedings to the extent issued or served in connection with the Transferring Policies, the Transferring Assets or the Transferring Liabilities (but, for the avoidance of doubt, not any proceedings relating to Excluded Assets or Excluded Liabilities) in respect of which the Transferor is plaintiff, claimant or applicant shall be continued by the Transferee and the Transferee shall be entitled to all claims, counterclaims, defences to counterclaims and rights of set-off that were or would have been available to the Transferor in relation to those proceedings.

4.2 On and with effect from the Subsequent Transfer Date applicable thereto, any proceedings (but, for the avoidance of doubt, not any proceedings relating to Excluded Assets or Excluded Liabilities) to the extent issued or served in connection with a Residual Asset or a Residual Liability in respect of which the Transferor is plaintiff, claimant or applicant shall be continued by the Transferee and the Transferee shall be entitled to all claims, counterclaims, defences to counterclaims and rights of set-off that were or would have been available to the Transferor in relation to those proceedings. Until such Subsequent Transfer Date, the relevant proceedings shall be continued by the Transferor.

4.3 For the avoidance of doubt, any proceedings to the extent issued or served which are not to be continued by the Transferee pursuant to paragraph 4.1 or 4.2 shall be continued by the Transferor and the Transferor shall remain entitled to all defences, claims, counterclaims, defences to counterclaims and rights of set-off that were or would have been available to it in relation to those proceedings.

5. **PREMIUMS AND MANDATES**

5.1 All premiums attributable or referable to the Transferring Policies, if any, shall on and after the Effective Date be payable to the Transferee.

5.2 Any direct debit mandate, standing order or other instruction in force on the Effective Date and providing for the payment by a bank or other intermediary of premiums or other amounts payable under any Transferring Policy or Transferring Asset shall thereafter take effect as if it had provided for and authorised such payment to the Transferee.

5.3 Any mandate or other instruction in force on the Effective Date as to the manner of payment by the Transferor of any sum payable under any Transferring Policy shall continue in force as an effective authority to the Transferee.

6. RIGHTS AND OBLIGATIONS UNDER THE TRANSFERRING POLICIES

6.1 On and with effect from the Effective Date, the Transferee shall become entitled to all the rights, benefits and powers of the Transferor whatsoever subsisting on the Effective Date under or by virtue of the Transferring Policies.

6.2 Subject to the terms of this Scheme, every person who is a policyholder in respect of a Transferring Policy shall, on and with effect from the Effective Date, become entitled, in succession to, and to the exclusion of, any rights (including rights to share in the profits or any distribution of the working capital of the Transferor) which he may have had against the Transferor under such Transferring Policy (other than any right arising in respect of or from any Excluded Liability), to the same rights against the Transferee as were available to him against the Transferor under such Transferring Policy (other than any right arising in respect of or from any Excluded Liability or any right or interest in any possible future distribution or reattribution of the inherited estate of the Transferee WPSF or any right to be a member of the Transferor) and (as regards a Transferring Policy under which premiums or other sums attributable or referable thereto continue to be payable by him) shall on and with effect from the Effective Date account to the Transferee for any further or additional premiums or other sums attributable or referable thereto, if any, as and when the same become due and payable.

6.3 If any person entitled to do so with respect to a Transferring Policy exercises any right or option granted under the terms of that Transferring Policy (save, for the avoidance of doubt, where such right or option arises from or by reason of an Excluded Liability) and either:

- (a) the right or option provides for a new, additional or replacement policy to be issued or amendments to be made to an existing Transferring Policy; or
- (b) it is appropriate in the opinion of the Transferee Board, having regard to the advice of the Transferee Actuary, in order to comply with that right or option to issue a new, additional or replacement policy or, as the case may be, amend an existing Transferring Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue or amendment (as the case may be) by the Transferee of a policy which complies with the terms of such right or option. Without prejudice to such entitlement, if the Transferee is not at the time of the exercise of such right or option writing policies complying exactly with the policy to which such person is entitled pursuant to the right or option, the Transferee shall be entitled to offer to such person as an

alternative (and, if accepted, in lieu thereof) the policy commonly offered by the Transferee or any other member of the Transferee Group which the Transferee in its absolute discretion considers to be the nearest equivalent policy of the Transferee or such other member of the Transferee Group (as the case may be) at that time.

- 6.4 All references in any Transferring Policy (and, in relation to any Transferring Policy comprised within a Multi-Segment Policy, all references in that Multi-Segment Policy when construing the Multi-Segment Policy in relation to the Transferring Policy) to the Transferor, the Transferor Board, the Transferor Actuary or any other officers, employees or agents of the Transferor shall, with effect on and from the Effective Date, be read as references to the Transferee, the Transferee Board, the Transferee Actuary or any other officers, employees or agents of the Transferee respectively or, where appropriate, agents of the Transferee to which the administration or investment management of the relevant part of the business carried on by the Transferee has been delegated. In particular, but without limitation, and subject to the other provisions of this Scheme, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by the Transferor, the Transferor Board, the Transferor Actuary or any other officers, employees or agents of the Transferor in relation to any of the Transferring Policies (other than in relation to Excluded Liabilities) shall, with effect on and from the Effective Date, be exercisable or required to be performed by the Transferee, the Transferee Board, the Transferee Actuary or any other officers, employees or such agents of the Transferee respectively. All references in a Transferring Policy to the Transferor Group shall, where the context requires, be read and construed with effect on and from the Effective Date as references to the Transferee Group.
- 6.5 Where the benefits of any Transferring Policy are held under the terms of a trust, such terms together with the terms of any rules applicable to any pension scheme in the case of any pension scheme under which benefits are referable to a Transferring Policy, shall operate and be construed, with effect on and from the Effective Date, on a basis which is consistent with the transfer of such Transferring Policy in accordance with the provisions of this Scheme. For the avoidance of doubt:
- (a) where the consent of the Transferor is required under any such terms, the consent of the Transferee shall, with effect on and from the Effective Date, instead be treated as required; and
 - (b) where a power to appoint trustees under such terms is conferred on the Transferor, that power shall, with effect on and from the Effective Date, instead be treated as conferred on the Transferee.
- 6.6 With effect on and from the Effective Date and without any further act or instrument, each Multi-Segment Policy which incorporates a Transferring Policy shall be construed at all times so that:

- (a) the Transferee has all rights and liabilities under that Multi-Segment Policy subsisting on the Effective Date to the extent that those rights and liabilities relate to Transferring Policies; and
- (b) the Transferor retains all other rights and liabilities under that Multi-Segment Policy,

provided that (i) the Transferee shall only acquire such rights or liabilities referred to in sub-paragraph (a) of this paragraph 6.6 as are respectively Residual Assets or Residual Liabilities in accordance with paragraph 3 on the respective Subsequent Transfer Date relating thereto and (ii) the Transferee shall in no event assume any liability as is referred to in that sub-paragraph which is an Excluded Liability.

6.7 In accordance with, but without prejudice to the generality of, paragraph 6.6, each Multi-Segment Policy which incorporates a Transferring Policy shall be construed, with effect on and from the Effective Date, so that:

- (a) the Transferor and the Transferee are each a party to the Multi-Segment Policy, each in the capacity of insurer;
- (b) the Transferor retains all rights and liabilities under the Multi-Segment Policy except to the extent that rights and liabilities thereunder relate to the Transferring Policies, in which case the Transferee shall have those rights and liabilities (other than the Excluded Liabilities, which shall be retained by the Transferor);
- (c) the Transferor shall (to the exclusion of the Transferee) provide any services, information and documents required to be provided under the Multi-Segment Policy, other than services, information or documents relating to Transferring Policies, which shall be provided by the Transferee (to the exclusion of the Transferor), save that the Transferor shall provide any such information relating to Excluded Liabilities;
- (d) the Transferor shall (to the exclusion of the Transferee) be responsible for receiving any information or instructions that may be given under the terms of the Multi-Segment Policy and for updating such information and implementing such instructions in accordance with, and subject to, the terms of the Multi-Segment Policy, save that the Transferee shall (to the exclusion of the Transferor) be responsible for receiving any information or instructions that may be given in relation to the Transferring Policies under the terms of the Multi-Segment Policy and for updating such information and implementing such instructions in relation to the Transferring Policies in accordance with, and subject to, the terms of the Multi-Segment Policy;

- (e) the Transferor shall (to the exclusion of the Transferee) retain any right, subject to the terms of the Multi-Segment Policy and all applicable regulatory requirements, to exercise any discretionary power or make any decision in relation to the administration of the Multi-Segment Policy, save to the extent that any such rights relate to the Transferring Policies, in which case the Transferee shall (to the exclusion of the Transferor) have that right;
- (f) the Transferor shall (to the exclusion of the Transferee) retain any obligation to issue a new, replacement or additional policy required to be issued under the terms of any option or right under the Multi-Segment Policy, save to the extent that any such obligation relates to the Transferring Policies, in which case the Transferee shall, in accordance with and subject to paragraph 6.3 (to the exclusion of the Transferor), have that obligation unless that obligation arises from an Excluded Liability;
- (g) the Transferor and the Transferee shall each have separate obligations as insurer under the Multi-Segment Policy as allocated pursuant to this Scheme and shall be neither jointly, nor jointly and severally, liable for the same obligation under the Multi-Segment Policy;
- (h) neither the Transferor nor the Transferee shall exercise any right, power or discretion to agree to any amendment to a Multi-Segment Policy which in any such case may have an effect on the other without the prior written consent of the other; and
- (i) without limitation to paragraph 6.7(h), the Transferor shall not agree to any amendment, modification or variation, including, without limitation, any increment, being made to any Transferring Policy without the prior written consent of the Transferee.

7. EXCLUDED POLICIES

- 7.1 Subject to paragraph 7.6, the Excluded Policies shall not be transferred to the Transferee by this Scheme and the liabilities under the Excluded Policies shall remain liabilities of the Transferor but shall after the Effective Date be reinsured in their entirety (except to the extent that they constitute Excluded Liabilities) into the Transferee on terms consistent with those described in paragraphs 7.2 to 7.4 inclusive.
- 7.2 On or prior to the Effective Date, the Transferor and the Transferee shall enter into the Excluded Policies Reassurance Agreement pursuant to which all the liabilities of the Transferor attributable to the Excluded Policies (except to the extent that they constitute Excluded Liabilities) and all other amounts paid or payable by the Transferor in respect of the Excluded Policies (except to the extent that they constitute Excluded Liabilities but

including without limitation amounts paid or payable in connection with the surrender of any Excluded Policy) shall be reinsured in their entirety into the Transferee.

7.3 The premiums payable under the Excluded Policies Reassurance Agreement shall be deemed to have been paid to the Transferee by reason of the transfer of the Transferring Assets to the Transferee in accordance with this Scheme.

7.4 The liability of the Transferee in respect of the Excluded Policies Reassurance Agreement, including without limitation the obligation to make payments in respect of the Excluded Policies, shall be calculated so as to ensure that benefits are provided to holders of Excluded Policies which are the same as the benefits which would have accrued to such policyholders if such Excluded Policies had been Transferring Policies, and:

(a) the Transferor shall have a corresponding liability under such Excluded Policies; and

(b) the Excluded Policies shall be amended so that they cease to confer:

(i) any entitlement to participate in the profits of the Transferor whether by way of bonus or otherwise (including rights to share in the profits or any distribution of the working capital of the Transferor); or

(ii) any entitlement to be a member of the Transferor.

7.5 If any person exercises any right or option granted under the terms of an Excluded Policy and the right or option provides for a new, additional or replacement policy to be issued such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue by the Transferor of a policy which complies with the terms of such right or option. Any new policy issued by the Transferor pursuant to this paragraph 7.5 shall be treated as an Excluded Policy and shall be reinsured on the basis set out in this paragraph 7 save to the extent that the right or option pursuant to which it is issued constitutes an Excluded Liability.

7.6 If the novation of any Excluded Policy to the Transferee is procured, the rights and liabilities of the Transferor relating to such Excluded Policy shall, to the extent not previously transferred, be transferred to the Transferee and such Excluded Policy shall thereafter be dealt with by the Transferee under the provisions of this Scheme in all respects as if it were a Transferring Policy and it shall be amended, with effect from the date of transfer, so as to confer an entitlement to participate in the profits of the Transferee to the same extent as if it had been a Transferring Policy.

8. **DECLARATION OF TRUST BY THE TRANSFEROR**

8.1 If:

- (a) any property of the Transferor is not, or is not capable of being, transferred to and vested in the Transferee by the Order or any Overseas Order on the Effective Date by reason of such property being a Residual Asset or for any other reason; or
- (b) any Residual Asset is not, or is not capable of being, transferred to and vested in the Transferee by the Order or any Overseas Order on the Subsequent Transfer Date applicable thereto; or
- (c) in any circumstances the Transferor and the Transferee shall decide before the Effective Date (or, in the case of any Residual Asset, before the Subsequent Transfer Date applicable thereto) that it is expedient not to effect a transfer of any property of the Transferor,

then the Transferor shall, on and from the Effective Date (but save to the extent that giving effect to such a trust would require a consent or waiver which has not been obtained) hold any property referred to in paragraphs 8.1(a) to 8.1(c), together with any proceeds of sale or income or other right accrued or return arising in respect thereof (including, without limitation, any payment, property or right within paragraph 8.3 below), as trustee for the Transferee.

8.2 The Transferor shall be subject to exclusive directions from the Transferee in respect of any property referred to in paragraphs 8.1(a) to 8.1(c) on and from the Effective Date until the relevant property is transferred to or otherwise vested in the Transferee or is disposed of (whereupon the Transferor shall account to the Transferee for the proceeds of the sale thereof), and the Transferee shall have authority to act as the attorney of the Transferor in respect of such property and the Transferee shall indemnify the Transferor on demand against any reasonable costs or liability, other than any salary or internal administrative expense of the Transferor, incurred in complying with any direction given by the Transferee.

8.3 In the event of any payment being made to, property being received by, or right being conferred upon the Transferor on or after the Effective Date in respect of any Transferring Asset or any Residual Asset, the Transferor shall, as soon as is reasonably practicable after its receipt, pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to, or in accordance with the directions of, the Transferee and the Transferee shall indemnify the Transferor on demand against any reasonable costs or liability, other than any salary or internal administrative expense of the Transferor, incurred in making any such payment or transfer.

9. **INDEMNITIES**

9.1 With effect on and from the Effective Date until the relevant Subsequent Transfer Date, the Transferee shall discharge on the Transferor's behalf or, failing that, shall indemnify

the Transferor against each Residual Liability, provided that where such a liability is, whether wholly or in part, the subject of a policy of indemnity insurance or a claim or right of recovery against a third party, the obligations of the Transferor to discharge such liability and the indemnity given by the Transferee hereunder shall only apply to the extent that the Transferor, having made a claim under such a policy or against such third party, shall have failed to recover any such amount pursuant to rights it may have under such policy, claim or right of recovery (having used reasonable endeavours to do so) provided always that the Transferee shall indemnify the Transferor in respect of any reasonable costs, claims, charges and other liabilities incurred by the Transferor in recovering the same. The Transferee's obligations under this paragraph 9.1 shall not prejudice any indemnity granted by the Transferor to the Transferee prior to the Effective Date in respect of Transferring Liabilities, Excluded Liabilities or Residual Liabilities.

9.2 If, despite its terms, this Scheme has the effect of transferring any Excluded Liability from the Transferor to the Transferee, the Transferor shall indemnify the Transferee for any loss, liability or expense, other than any salary or internal administrative expense of the Transferee, which it suffers in consequence of such Excluded Liability to the extent that such loss, liability or expense could not have been avoided or reduced by the Transferee by:

- (a) referring the matter to the Transferor in accordance with paragraph 9.3; and
- (b) otherwise using reasonable endeavours to mitigate or reduce the loss, liability or expense.

9.3 On becoming aware that this Scheme has had the effect of transferring any Excluded Liability from the Transferor to the Transferee, the Transferee shall promptly notify the Transferor and:

- (a) subject to applicable law and regulatory requirements, and subject to informing the policyholder and any other interested person (including the FSA) of the arrangements to be made under this paragraph 9.3, the Transferee shall permit the Transferor to conduct any proceedings and handle any correspondence arising in respect of such Excluded Liability;
- (b) the Transferee shall provide all assistance reasonably requested by the Transferor to enable the Transferor to conduct any such proceedings and to handle any such correspondence, including without limitation allowing the Transferor to have during office hours access to any records in its possession relating to the Excluded Liability or to any policy in connection with which it has arisen; and

(c) the Transferee shall not compromise or settle or make any admission of liability (on its own part or on the part of the Transferor) in respect of such Excluded Liability without the prior written consent of the Transferor.

9.4 For the avoidance of doubt, the Transferee shall not be required under paragraphs 9.1 and 9.2 above to discharge or indemnify the Transferor against Excluded Liabilities or any charges, costs, claims or other liabilities in respect of Excluded Liabilities, and in particular, but without limitation, the Transferee shall not be required to discharge or indemnify the Transferor against any Tax liabilities of the Transferor.

9.5 The Transferor shall indemnify the Transferee against all costs, liabilities, losses or expenses incurred or suffered by it in relation to any deductions, withholdings or reductions of benefits imposed on any of the Transferring Policies in order:

- (a) to comply with any limits imposed at any time prior to the Effective Date by any tax, regulatory or other competent authority; or
- (b) to obtain repayment of annuity overpayments or policy loans effected prior to the Effective Date, to the extent that the Transferor's failure to recover in full any and all amounts owing to it from policyholders by reason of such annuity overpayments or policy loans results in a lower amount of assets (disregarding for this purpose any amounts receivable from policyholders) being transferred to the Transferee hereunder.

PART D - ALLOCATIONS ON THE EFFECTIVE DATE

10. ALLOCATION OF THE TRANSFERRING POLICIES

10.1 On the Effective Date, all of the Transferring Policies shall be allocated to the Transferee DCPSF.

11. ALLOCATION OF ASSETS

11.1 On the Effective Date, each of the following shall be allocated to the Transferee WPSF:

- (a) the Up-front Guarantee Charge Transferring Assets and the Mortality Premium Transferring Assets;
- (b) the potential benefit of the Mortality Experience Provisions to the extent requiring payment to be made to the Transferee WPSF from the Transferee DCPSF; and
- (c) the beneficial interest in all property held on trust pursuant to paragraph 8.1, and the right to receive any payment, property or right pursuant to paragraph 8.3, to the extent that, but for falling within the provisions of paragraph 8.1, such property (or the property to which such payment, property or right relates) would have fallen within the provisions of paragraph 11.1(a).

11.2 On the Effective Date, each of the following shall be allocated to the Transferee DCPSF:

- (a) the Aggregate Initial Asset Share Transferring Assets;
- (b) the potential benefit of the Mortality Experience Provisions to the extent requiring payment to be made to the Transferee DCPSF from the Transferee WPSF; and
- (c) the beneficial interest in all property held on trust pursuant to paragraph 8.1, and the right to receive any payment, property or right pursuant to paragraph 8.3, to the extent that, but for falling within the provisions of paragraph 8.1, such property (or the property to which such payment, property or right relates) would have fallen within the provisions of paragraph 11.2(a).

11.3 With effect from the applicable Subsequent Transfer Date, each Residual Asset to which that Subsequent Transfer Date relates shall be allocated:

- (a) if, but for falling within the provisions of paragraph 8.1, such Residual Asset would have fallen within the provisions of paragraph 11.1(a), to the Transferee WPSF; or
- (b) if, but for falling within the provisions of paragraph 8.1, such Residual Asset would have fallen within the provisions of paragraph 11.2(a), to the Transferee DCPSF.

12. ALLOCATION OF LIABILITIES

12.1 On the Effective Date, each of the following shall be allocated to the Transferee DCPSF:

- (a) subject to the potential benefit of the Mortality Experience Provisions to the extent requiring payment to be made to the Transferee DCPSF from the Transferee WPSF:
 - (i) the Transferring Liabilities other than the Guarantee Liabilities in respect of the Transferring Policies; and
 - (ii) the liabilities under the Excluded Policies Reassurance Agreement other than liabilities corresponding to the Guarantee Liabilities under the Excluded Policies;
- (b) the potential burden of the Mortality Experience Provisions to the extent requiring payment to be made to the Transferee WPSF from the Transferee DCPSF; and
- (c) subject to paragraph 9.4, the liability to discharge each Residual Liability on the Transferor 's behalf or, failing that, to indemnify the Transferor in respect thereof pursuant to paragraph 9.1, to the extent that, if it had not constituted a Residual Liability, the liability which constitutes such Residual Liability would have fallen within the provisions of paragraph 12.1(a).

12.2 On the Effective Date, each of the following shall be allocated to the Transferee WPSF:

- (a) the Guarantee Liabilities in respect of the Transferring Policies;
- (b) the liabilities under the Excluded Policies Reassurance Agreement corresponding to the Guarantee Liabilities under the Excluded Policies;
- (c) the potential burden of the Mortality Experience Provisions to the extent requiring payment to be made to the Transferee DCPSF from the Transferee WPSF; and
- (d) subject to paragraph 9.4, the liability to discharge each Residual Liability on the Transferor 's behalf or, failing that, to indemnify the Transferor in respect thereof pursuant to paragraph 9.1, to the extent that, if it had not constituted a Residual Liability, the liability which constitutes such Residual Liability would have fallen within the provisions of paragraph 12.2(a).

12.3 With effect from the applicable Subsequent Transfer Date, each Residual Liability to which that Subsequent Transfer Date relates shall be allocated:

- (a) if, but for the fact that it constitutes a Residual Liability, the liability which constitutes such Residual Liability would have fallen within the provisions of paragraph 12.1(a), to the Transferee DCPSF; or
- (b) if, but for the fact that it constitutes a Residual Liability, the liability which constitutes such Residual Liability would have fallen within the provisions of paragraph 12.2(a), to the Transferee WPSF.

PART E - MANAGEMENT OF THE TRANSFERRING POLICIES

13. ASSET SHARE OF THE TRANSFERRING POLICIES

Individual Asset Shares for the Transferring Policies and, for the purposes of the Excluded Policies Reassurance Agreement, the Excluded Policies will be established in an aggregate amount equal to the Pre-Augmentation Aggregate Initial Asset Share as at the Effective Date, and will be subject to amendment pursuant to paragraph 16.3(b) or paragraph 16.4, as applicable.

14. PRINCIPLES OF FINANCIAL MANAGEMENT

On and with effect from the Effective Date, the Principles of Financial Management set out in Schedule 2 (*Principles of Financial Management*) shall apply to the Transferring Policies and the Excluded Policies.

15. THE ESTABLISHMENT OF THE TRANSFERRING POLICIES SMOOTHING ACCOUNT

15.1 On the Effective Date, the Transferring Policies Smoothing Account will be established in the Transferee WPSF.

15.2 The Transferring Policies Smoothing Account will be used exclusively for the purpose of providing smoothing in respect of the Transferring Policies and the Excluded Policies and shall be operated in accordance with the Principles of Financial Management.

15.3 No assets or liabilities will be allocated to the Transferring Policies Smoothing Account on the Effective Date.

PART F - ADJUSTMENT OF ALLOCATIONS MADE AS AT THE EFFECTIVE DATE

16. ADJUSTMENT PAYMENTS AND AUGMENTATION

16.1 Subject to paragraph 16.2, on the Adjustment Payment Date:

(a) an adjustment payment will be made in cash by the Transferor to the Transferee or by the Transferee to the Transferor in an amount equal to the WPSF Adjustment Amount plus interest accrued at the Interest Rate on the WPSF Adjustment Amount from the Effective Date to the Adjustment Payment Date as follows:

(i) where:

(1) the aggregate of the Post-Augmentation Up-front-Guarantee Charge and the Post-Augmentation Mortality Premium;

exceeded

(2) the aggregate of the Determined Market Value of the Up-front-Guarantee Charge Transferring Assets and the Determined Market Value of the Mortality Premium Transferring Assets as at the Effective Date;

the cash payment will be made by the Transferor to the Transferee and will be allocated to the Transferee WPSF; and

(ii) where:

(1) the aggregate of the Post-Augmentation Up-front-Guarantee Charge and the Post-Augmentation Mortality Premium;

was less than

(2) the aggregate of the Determined Market Value of the Up-front-Guarantee Charge Transferring Assets and the Determined Market Value of the Mortality Premium Transferring Assets as at the Effective Date;

the cash payment will be made by the Transferee, from the Transferee WPSF, to the Transferor; and

(b) an adjustment payment will be made in cash by the Transferor to the Transferee or by the Transferee to the Transferor in an amount equal to the Aggregate Initial Asset Share Adjustment Amount plus interest accrued at the Interest Rate on the Aggregate Initial Asset Share Adjustment Amount from the Effective Date to the Adjustment Payment Date as follows:

- (i) where the Post-Augmentation Aggregate Initial Asset Share exceeded the Determined Market Value of the Aggregate Initial Asset Share Transferring Assets as at the Effective Date, the cash payment will be made by the Transferor to the Transferee and will be allocated to the Transferee DCPSF; and
- (ii) where the Post-Augmentation Aggregate Initial Asset Share was less than the Determined Market Value of the Aggregate Initial Asset Share Transferring Assets as at the Effective Date, the cash payment will be made by the Transferee, from the Transferee DCPSF, to the Transferor.

16.2 Where in accordance with paragraph 16.1 a cash payment or two cash payments would be required to be made by the Transferee to the Transferor and the amount of that cash payment or the aggregate amount of those two cash payments (the "**required cash payment**") would exceed the amount of the cash included in the Transferring Assets (the "**initial cash payment**"):

- (a) where the required cash payment consists of one cash payment, its amount shall be reduced by the amount by which the required cash payment exceeds the initial cash payment;
- (b) where the required cash payment consists of two cash payments, the aggregate amount of those cash payments shall be reduced, in such proportion as between them as may be selected by the Transferee, by an aggregate amount equal to the amount by which the required cash payment exceeds the initial cash payment; and
- (c) where the amount of a cash payment is reduced under paragraph (a) or paragraph (b), the Transferee's obligation to make that cash payment shall be replaced by an obligation on the part of the Transferee to pay that cash payment in the reduced amount and to transfer to the Transferor on the Adjustment Payment Date:
 - (i) Transferring Assets comprising gilts or corporate bonds; and
 - (ii) to the extent that there are insufficient gilts or corporate bonds, other Transferring Assets other than cash;

having an aggregate mid-market value as at close of business on the Business Day immediately prior to the Adjustment Payment Date equal to the amount of the reduction in that cash payment, and the transfer of those Transferring Assets shall be made from the same fund from which that cash payment is required to be made.

16.3 Where the Aggregate Augmentation Amount is positive then, on the Income Uplift Date:

- (a) the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy shall be multiplied by the Adjustment Percentage; and
- (b) immediately following the increase of the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and Excluded Policy on the Income Uplift Date, the Aggregate Asset Share shall be adjusted to the amount that it would then be if on the Effective Date it had been set equal to the Post-Augmentation Aggregate Initial Asset Share (rather than the Pre-Augmentation Aggregate Initial Asset Share) but if the Pre-Smoothing Non-Guaranteed Income had been determined as it was in fact determined (using the Individual Asset Shares established in accordance with paragraph 13), and the Individual Asset Share of each Transferring Policy and each Excluded Policy shall be adjusted accordingly.

16.4 Where the Aggregate Augmentation Amount is negative then, on the Income Uplift Date, the Aggregate Asset Share shall be adjusted to the amount that it would then be if on the Effective Date it had been set equal to the Post-Augmentation Aggregate Initial Asset Share (rather than the Pre-Augmentation Aggregate Initial Asset Share) but if the Pre-Smoothing Non-Guaranteed Income had been determined as it was in fact determined (using the Individual Asset Shares established in accordance with paragraph 13), and the Individual Asset Share of each Transferring Policy and each Excluded Policy shall be adjusted accordingly.

16.5 On the Income Uplift Date, the Transferee shall transfer assets from the Transferee WPSF to the Transferee DCPSF or from the Transferee DCPSF to the Transferee WPSF to the extent necessary to ensure that the value of assets held in the Transferee DCPSF in respect of the Transferring Policies and the Excluded Policies is equal to the Aggregate Asset Share as adjusted under paragraph 16.3(b) or 16.4.

16.6 The obligation of the Transferor to make payment under paragraph 16.1 shall be limited by reduction (to a minimum of zero) of the WPSF Adjustment Amount and/or the Aggregate Initial Asset Share Adjustment Amount or both such that the amount given by:

- (a) the Determined Market Value of the Aggregate Initial Asset Share Transferring Assets as at the Scheme Effective Date;

PLUS

- (b) the Determined Market Value of the Up-front-Guarantee Charge Transferring Assets as at the Scheme Effective Date;

PLUS

- (c) the Determined Market Value of the Mortality Premium Transferring Assets as at the Scheme Effective Date;

PLUS

- (d) where the same is to be paid by the Transferor, the WPSF Adjustment Amount;

PLUS

- (e) where the same is to be paid by the Transferor, the Aggregate Initial Asset Share Adjustment Amount;

MINUS

- (f) where the same is to be paid by the Transferee, the WPSF Adjustment Amount;

MINUS

- (g) where the same is to be paid by the Transferee, the Aggregate Initial Asset Share Adjustment Amount;

does not exceed the WPA Allocated Amount, and where both the WPSF Adjustment Amount and the Aggregate Initial Asset Share Adjustment Amount are to be paid by the Transferor any such reduction shall be allocated between the WPSF Adjustment Amount and the Aggregate Initial Asset Share Adjustment Amount in proportion to the amounts thereof.

- 16.7 In the event of any shortfall in the amount received by the Transferee pursuant to this paragraph 16 (ignoring, for the purposes of this paragraph 16.7, any reduction in the WPSF Adjustment Amount and/or the Aggregate Initial Asset Share Adjustment Amount under paragraph 16.6) such shortfall shall be borne by a reduction in the Aggregate Asset Share or from the gross investment income that would otherwise be credited thereto, without there being any change to the asset shares or gross investment income to be credited to any other policies of the Transferee or any recourse to any other assets of the Transferee.

PART G - MISCELLANEOUS PROVISIONS

17. EFFECTIVE DATE

17.1 Subject to paragraph 17.3, this Scheme shall become effective at 11.59pm GMT on 31 December 2007 or such other time and date as the Transferor and the Transferee may agree (being a time and date after the making of the Order sanctioning the Scheme).

17.2 Unless this Scheme shall become effective in its entirety on or before 11.59pm GMT on 31 December 2007 or such later date and/or time, if any, as the Court may allow upon the application of the Transferee and the Transferor, it shall lapse.

17.3 This Scheme shall not become effective on the Effective Date unless on or prior thereto the Tax Clearances satisfactory in form and content to both parties, acting reasonably, have been obtained or unless the parties otherwise agree.

18. MODIFICATIONS OR ADDITIONS

18.1 The Transferee and the Transferor may consent for and on behalf of themselves and all other persons concerned to any modification of or addition to this Scheme or to any further condition or provision affecting the same which, in each case prior to its sanction of this Scheme, the Court may approve or impose.

18.2 At any time after the sanction of this Scheme, the Transferee and the Transferor shall be at liberty to apply jointly to the Court for consent to amend its terms, provided that in any such case:

- (a) the Insurance Regulator shall be notified of, and have the right to be heard at, any hearing of the Court at which such application is considered; and
- (b) such application shall be accompanied by a certificate from an independent actuary to the effect that in his opinion the proposed amendment will not adversely affect the fair treatment of the holders of Transferring Policies.

If such consent is granted, the Transferee and the Transferor may amend the terms of this Scheme in accordance with such consent.

19. COSTS AND EXPENSES

Except as otherwise agreed in writing, the Transferor and the Transferee shall bear their own costs and expenses in relation to the preparation and carrying into effect of this Scheme, whether before or after the Effective Date.

20. THIRD PARTY RIGHTS

A person who is not a party to this Scheme may not enforce any term of this Scheme pursuant to the Contracts (Rights of Third Parties) Act 1999.

21. **GOVERNING LAW**

This Scheme is governed by, and shall be construed in accordance with, English law.

Dated

2007

SCHEDULE 1

DEFINITIONS AND INTERPRETATION

1. Definitions and Interpretation

1.1 In this Scheme, unless the subject or context requires otherwise, the following expressions bear the meanings respectively set opposite them:

"Actuarial Function Holder" means, in relation to an insurer, the person appointed by that insurer from time to time to perform the duties set out in SUP 4.3.13R;

"Actuary" means the person appointed by the relevant insurer from time to time to perform the duties set out in SUP 4.3.13R;

"Adjustment Payment Date" means the date on which adjustment payments are made in accordance with paragraph 16, being the date falling two weeks after the date on which versions of each of the documents produced and calculations and determinations made by the Transferor under paragraph 5 of Schedule 5 (*Adjustment and Augmentation*) have become final and binding on the Transferor and the Transferee, or such other date being not more than two weeks thereafter as may be agreed in writing by the Transferor and the Transferee;

"Adjustment Percentage" has the meaning given in paragraph 8.3 of Schedule 5 (*Adjustment and Augmentation*);

"Aggregate Asset Share" means, at any time in relation to the Transferring Policies and the Excluded Policies, the sum of the Individual Asset Shares of the Transferring Policies and the Excluded Policies;

"Aggregate Augmentation Amount" has the meaning given in paragraph 8.1 of Schedule 5 (*Adjustment and Augmentation*);

"Aggregate Initial Asset Share Adjustment Amount" has the meaning given in paragraph 5.1(f) of Schedule 5 (*Adjustment and Augmentation*);

"Aggregate Initial Asset Share Transferring Assets" means the assets referred to as such in the Assets List, as adjusted in accordance with Schedule 3;

"Aggregate Policyholder Entitlement" means the amount given by:

(a) the WPA Allocated Amount;

MINUS

(b) the aggregate of the Pre-Augmentation Aggregate Initial Asset Share, the Pre-Augmentation Up-front Guarantee Charge and the Pre-Augmentation Mortality Premium (that is, the Pre-Augmentation Transfer Amount);

"Aggregate Policy Value" means the present value of the future Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies and the Excluded Policies, calculated using the Core Reserving Basis but either using the original mortality basis included therein or another mortality basis (the applicable mortality basis being specified in respect of each use of the term "Aggregate Policy Value" herein);

"Assets Disclosure Letter" has the meaning given in paragraph 2.1 of Schedule 3 (*Adjustments to assets included on the Assets List*);

"Assets List" means the list of assets provided to the Court for the purposes of this Scheme, purporting to set out the Aggregate Initial Asset Share Transferring Assets, the Up-Front Guarantee Charge Transferring Assets and the Mortality Premium Transferring Assets; [*this will be the list of assets determined in accordance with paragraph 4.6 of Schedule 5 to the Business Transfer Agreement*]

"Basic Life Assurance and General Annuity Business" has the meaning given in section 431F of the Taxes Act;

"Board" means, in relation to a company, the board of directors from time to time of that company;

"Business Day" means a day (other than a Saturday or a Sunday) on which banks are open for business (other than solely for trading and settlement in euro) in London;

"COB" means the Conduct of Business Sourcebook, forming part of the FSA Rules;

"Core Reserving Basis" means the reserving basis set out in Part I of Schedule 4;

"Court" means the High Court of Justice in England and Wales;

"Deferred Cost Policies" means those Transferring Policies and Excluded Policies identified on the Final Policy List as annuities under which deductions are required to be made from future bonuses in respect of the deferred cost of the Transferor's guaranteed annuity rate policies, being policies in respect of which it is the practice of the Transferor prior to the Effective Date to make such deductions;

"Determined Market Value" has the meaning given in paragraph 5.1(d) of Schedule 5 (*Adjustment and Augmentation*);

"Draft Final Data Date" means the date falling three months after the Effective Date or such earlier date as the parties may agree;

"Effective Date" means the time and date on which this Scheme shall become effective in accordance with paragraph 17;

"Effective Date Database" has the meaning given in paragraph 1.1 of Schedule 5 (*Adjustment and Augmentation*);

"Errors List" has the meaning given in paragraph 1.3 of Schedule 5 (*Adjustment and Augmentation*);

"Estimated Mortality Change" means an amount calculated for purposes of the application of the Mortality Experience Provisions on the basis set out in paragraph 6 (*Mortality experience*) of the Principles of Financial Management;

"Excluded Assets" means all property of the Transferor other than the Transferring Assets and the Residual Assets;

"Excluded Liabilities" means:

- (a) all liabilities arising from the acts or omissions of the Transferor or of any other member of the Transferor Group or any of their directors, officers, employees, contractors or agents in relation to the Transferring Business which occurred on or before the Effective Date, including, without limitation:
 - (i) the Mis-selling Liabilities; and
 - (ii) the liabilities of the Transferor for breach of the Transferring Policies or of policies whose proceeds were used, wholly or in part, to pay the premium for Transferring Policies; and
 - (iii) the liabilities of the Transferor in respect of any regulatory requirements, whether such liability is in respect of losses incurred as a result of the breach of regulatory requirements or penalties or fines awarded in respect of such breach or otherwise;

(but for the avoidance of doubt, and without prejudice to the generality of this definition, the ordinary liabilities to make annuity payments to policyholders after the Effective Date which are intended to be transferred under this Scheme will not be Excluded Liabilities);

- (b) all liabilities in respect of Tax of the Transferor; and
- (c) all liabilities which derive from or are attributable to Excluded Assets;

"Excluded Policies" means:

- (a) any with-profits annuity of the Transferor set out in the Final Policy List in respect of which:

- (i) for the purpose of paragraph 1(3) of Schedule 12 to the FSMA, an EEA State other than the United Kingdom is the State of the commitment; and
- (ii) the Insurance Regulator has not prior to the date of the final court hearing in respect of the Scheme provided the certificate referred to in paragraph 4 of Part 1 of Schedule 12 to the FSMA with respect to the relevant EEA State which is the State of the commitment,

and for these purposes "**EEA State**" and "**State of the commitment**" bear the meanings ascribed thereto by, or for the purposes of, Part VII of the FSMA; and

- (b) any with-profits annuity of the Transferor set out in the Final Policy List which is otherwise not capable of being transferred by this Scheme or by either of the Overseas Schemes on the Effective Date;

"Excluded Policies Reassurance Agreement" means an agreement dated [] entered into between the Transferor and the Transferee under which the Transferee will provide reinsurance to the Transferor in respect of the Excluded Policies with effect from the Effective Date;

"Expert" has the meaning given in Schedule 7 (*Dispute resolution procedure*);

"Expired Policy" means any policy included in the Final Policy List which has terminated before the Effective Date (for the avoidance of doubt, profits and losses in respect of such policies will be for the account of the Transferor);

"Final Errors List" has the meaning given in paragraph 3.4 of Schedule 5 (*Adjustment and Augmentation*);

"Final Policy List" means the list of policies provided to the Court for the purposes of this Scheme, purporting to set out the list of Transferring Policies; [*this will be the Final Policy List determined in accordance with paragraph 4.5 of Schedule 4 to the Business Transfer Agreement*]

"FSA" means the Financial Services Authority;

"FSMA" means the Financial Services and Markets Act 2000;

"GAR Compromise Scheme" means the scheme of arrangement made under section 425 of the Companies Act 1985 by order of the Court made on 8 February 2002;

"GIR" means, in respect of a Transferring Policy, the guaranteed interest rate applicable in respect of that Transferring Policy;

"Gross Rate of Investment Return" means the rate of investment return earned by the Transferee on the Transferee WPSF Asset Pool, net of unrecoverable tax as applicable;

"Guaranteed Bonus" means a bonus applied in relation to the Guaranteed Income in respect of a Transferring Policy or Excluded Policy;

"Guaranteed Income" means:

- (a) in respect of a Transferring Policy or an Excluded Policy, the minimum amount that the contractual terms of the Transferring Policy or Excluded Policy require to be paid by way of income thereunder irrespective of the application of any investment income or bonus or charges, save for any Guaranteed Bonus which has already been declared and which is treated as having amended the minimum amount of income which is required to be so paid and save for any uplift applied in accordance with the GAR Compromise Scheme; and
- (b) in respect of a payment made under a Transferring Policy or an Excluded Policy, the minimum amount that the contractual terms of the Transferring Policy or Excluded Policy would require that payment to be, irrespective of the application of any investment income or bonus or charges, save for any Guaranteed Bonus which has already been declared and which is treated as having amended the minimum amount that that payment is required to be and save for any uplift applied in accordance with the GAR Compromise Scheme;

"Guarantee Liability" means, in respect of a Transferring Policy or an Excluded Policy, such part of the liability under that Transferring Policy or Excluded Policy as represents the obligation to pay such part (if any) of the Guaranteed Income in respect of that Transferring Policy or Excluded Policy as exceeds the Pre-Smoothing Non-Guaranteed Income in respect of that Transferring Policy or Excluded Policy in circumstances where the Guaranteed Income exceeds the Pre-Smoothing Non-Guaranteed Income;

"Income Uplift Date" means a date selected by the Transferee falling not more than two months after the Adjustment Payment Date;

"Incurred Cost of Guarantee" has the meaning given in paragraph 4(d) of the Principles of Financial Management;

"Individual Asset Share" means, at any time in relation to a Transferring Policy or an Excluded Policy, an amount representing the notional allocation of assets of the Transferee DCPSF to that Transferring Policy or Excluded Policy, being:

- (a) the amount established in accordance with paragraph 13;
- (b) as amended in accordance with paragraph 16.3(b) or paragraph 16.4, as applicable;
- (c) as reduced in respect of each payment made by the Transferee under that Transferring Policy or in respect of that Excluded Policy on or after the Effective

Date by the Pre-Smoothing Non-Guaranteed Income in respect of such payment;
and

(d) as increased and reduced in accordance with the Principles of Financial Management;

"Ineligible Policy" means any policy included in the Final Policy List which is not a with-profits annuity policy;

"INSPRU" means the Prudential Sourcebook for Insurers issued by the Insurance Regulator;

"Insurance Regulator" means the FSA, or such other governmental, statutory or other authority as shall have or shall from time to time carry out such functions in relation to Long-Term Insurance Business carried on in the United Kingdom as were at the date of this Scheme allocated to the FSA under the FSMA;

"Interest Rate" means, on any day, the base rate of HSBC Bank plc at close of business on the most closely preceding Business Day and, save where otherwise provided, any reference to the interest accrued at the **"Interest Rate"** over a period shall be the interest accrued on a daily basis at the Interest Rate on each day from (but excluding) the first day of that period to (and including) the last day of that period;

"Interim Arrangements" means the arrangements set out in Schedule 6 which are to apply in place of certain of the Principles of Financial Management in respect of the Transferring Policies and the Excluded Policies in the first year after the Effective Date;

"Long-Term Insurance Business" means the business of effecting or carrying out Long-Term Insurance Contracts;

"Long-Term Insurance Contracts" means contracts of insurance falling within classes of long term insurance business as set out in Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

"Long-Term Insurance Fund" means the fund, or each of the funds, established and maintained by the Transferor or by the Transferee (as the context requires) pursuant to INSPRU 1.5.22R in respect of Long-Term Insurance Business;

"Low Start Annuity Policy" means a Transferring Policy or Excluded Policy whose terms provide that the Guaranteed Income in respect thereof will increase by 3.5 per cent per annum (before the effect of any bonus affecting the level of Guaranteed Income);

"Minimum Threshold Amount" means, in any calendar year, £100,000,000 increased annually by reference to the retail prices index from the Effective Date to the first day of such calendar year;

"Mis-selling Liabilities" means any liabilities, losses, costs and/or expenses from time to time incurred by the Transferor to the extent such liabilities, losses, costs or expenses relate to mis-selling by or on behalf of the Transferor or any appointed representative of the Transferor in respect of the marketing or sale of any Transferring Policies or the Excluded Policies, or any policies whose proceeds were used, wholly or in part, to pay the premium for Transferring Policies or the Excluded Policies on or prior to the Effective Date, including, without limitation, liabilities, losses, costs and/or expenses arising from:

- (a) any complaint, claim, legal action or proceedings brought against the Transferor by or on behalf of any person or group of persons whether as a result of any agreed settlement or compromise (including, without limitation, an ex gratia payment) or otherwise, including, without limitation, the costs and expenses incurred in investigating and defending against any such complaint, claim, legal action or proceeding;
- (b) the Transferor complying with (or the Transferor failing to comply with) applicable law, or with rules, regulations, directions, guidance or industry practice (whether formal or informal) set by or given by any Regulatory Authority, including, without limitation, in connection with the review process relating to the mis-selling of personal pension policies and free standing additional voluntary contributions, as overseen by the Insurance Regulator, including, without limitation, the costs and expenses in connection with any such compliance, non-compliance or review so required; or
- (c) any penalty or fine levied, or which results from or arises in connection with any disciplinary action undertaken, by any Regulatory Authority, including, without limitation, the costs and expenses incurred in investigating, challenging and defending against any such penalty, fine or disciplinary action;

"Mortality Experience Provisions" means the provisions set out in paragraph 6 (*Mortality experience*) of the Principles of Financial Management which require payments to be made from the Transferee WPSF to the Transferee DCPSF or from the Transferee DCPSF to the Transferee WPSF as a result of:

- (a) payments of income on the Transferring Policies being more or less than expected in any calendar year because of lighter or heavier mortality than expected, as determined in accordance with paragraph 6 (*Mortality experience*) of the Principles of Financial Management; or
- (b) certain changes in the mortality assumptions of the Transferee (being changes which have an impact on the Aggregate Policy Value exceeding a certain threshold, as determined in accordance with paragraph 6 (*Mortality experience*) of the Principles of Financial Management;

"Mortality Impact" means an amount calculated for purposes of the application of the Mortality Experience Provisions on the basis set out in paragraph 6 (*Mortality experience*) of the Principles of Financial Management;

"Mortality Premium Transferring Assets" means the assets referred to as such in the Assets List, as adjusted in accordance with Schedule 3;

"Multi-Segment Policy" means a single legal contract of insurance which provides for benefits some of which are with-profits annuity benefits and some of which are benefits, not being with-profits annuity benefits, for payment of which the Transferor will continue to have liability after the Effective Date;

"Non-Chargeable Mortality Transfer Amount" means an amount calculated for purposes of the application of the Mortality Experience Provisions on the basis set out in paragraph 6 (*Mortality experience*) of the Principles of Financial Management;

"Non-Guaranteed Bonus" means a bonus applied in relation to the Post-Smoothing Non-Guaranteed Income in respect of a Transferring Policy or Excluded Policy;

"Order" means an order made by the Court pursuant to section 111 of the FSMA sanctioning this Scheme and any order (including, without limitation, any subsequent order) in relation to this Scheme made by the Court pursuant to section 112 of the FSMA;

"Overseas Court" means the Royal Court of Guernsey or the Royal Court of Jersey;

"Overseas Law" means the Insurance Business (Bailiwick of Guernsey) Law, 2002 or the Insurance Business (Jersey) Law 1996;

"Overseas Order" means any of the following:

- (a) an order to be made to sanction an insurance business transfer scheme for the transfer of such of the Transferring Policies, Transferring Assets and Transferring Liabilities as the Royal Court of Guernsey has jurisdiction to transfer under the Insurance Business (Bailiwick of Guernsey) Law, 2002; and
- (b) an order to be made to sanction an insurance business transfer scheme for the transfer of such of the Transferring Policies, Transferring Assets and Transferring Liabilities as the Royal Court of Jersey has jurisdiction to transfer under the Insurance Business (Jersey) Law 1996;

"Overseas Scheme" means any insurance business transfer scheme sanctioned by an Overseas Order;

"Post-Augmentation Aggregate Initial Asset Share" means the amount to be transferred by the Transferor to the Transferee for the purposes of the establishment by the Transferee of the Individual Asset Shares of the Transferring Policies and the

Excluded Policies, being the amount equal to the Pre-Augmentation Aggregate Initial Asset Share multiplied by the Adjustment Percentage;

"Post-Augmentation Calibration Amount" means as at the Effective Date, the amount given by:

(a) £5,100,000;

MULTIPLIED BY

(b) the aggregate of the amount calculated under paragraph (b) of the definition of Post-Augmentation Intrinsic Value of Guarantees and the amount calculated under paragraph (b) of the definition of Post-Augmentation Time Value of Guarantees in each case calculated using the Transferor Model and as at the Effective Date;

DIVIDED BY

(c) £121,100,000;

"Post-Augmentation Intrinsic Value of Guarantees" means the amount given by:

(a) £58,300,000;

MULTIPLIED BY

(b) the present value over the projected future lifetime of all Transferring Policies and Excluded Policies of expected excess payments where the Guaranteed Income in respect of a Transferring Policy or an Excluded Policy exceeds the Pre-Smoothing Non-Guaranteed Income in respect thereof, calculated ignoring stochastic variation and using the Transferor Model and as at the Effective Date and taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in accordance with Schedule 5 (*Adjustment and Augmentation*); it is acknowledged that this calculation assumes that the assets backing the Transferring Policies and the Excluded Policies earn a risk free rate determined from the risk free yield curve as defined in the Stochastic Reserving Basis, and all cashflows are discounted to a present value using an equivalent risk free rate;

DIVIDED BY

(c) £58,300,000;

"Post-Augmentation Mortality Premium" means the amount to be transferred by the Transferor to the Transferee in relation to the assumption by the Transferee of mortality risk in respect of the Transferring Policies and the Excluded Policies in accordance with the provisions of the Scheme, calculated taking into account any augmentation to the

Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*), being the amount given by:

- (a) the Post-Augmentation Aggregate Initial Asset Share;

MULTIPLIED BY

- (b) £17,000,000;

DIVIDED BY

- (c) £1,732,700,000;

"Post-Augmentation Planned Charges for Guarantees" means, as at the Effective Date, the amount which is given by:

- (a) £63,700,000;

MULTIPLIED BY

- (b) the net present value of the future on-going charges for guarantees at the rate of 0.5 per cent per annum to be made over the lifetime of the Transferring Policies and the Excluded Policies, calculated using the Stochastic Reserving Basis and the Transferor Model and as at the Effective Date and taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*);

DIVIDED BY

- (c) £64,200,000;

"Post-Augmentation Time Value of Guarantees" means the amount given by:

- (a) £70,700,000;

MULTIPLIED BY

- (b) the present value over the projected future lifetime of all Transferring Policies and Excluded Policies over and above that already reflected in the Post-Augmentation Intrinsic Value of Guarantees, of expected excess payments where the Guaranteed Income in respect of a Transferring Policy or an Excluded Policy exceeds the Pre-Smoothing Non-Guaranteed Income in respect thereof allowing for stochastic variation, calculated using the Stochastic Reserving Basis and the Transferor Model and as at the Effective Date and taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*);

DIVIDED BY

(c) £62,800,000;

"Post-Augmentation Transfer Amount" means the aggregate of the Post-Augmentation Aggregate Initial Asset Share, the Post-Augmentation Up-front Guarantee Charge and the Post-Augmentation Mortality Premium;

"Post-Augmentation Uncalibrated Up-front Guarantee Charge" means, as at the Effective Date, the amount given by:

(a) the Post-Augmentation Intrinsic Value of Guarantees as at the Effective Date;

PLUS

(b) the Post-Augmentation Time Value of Guarantees as at the Effective Date;

MINUS

(c) the Post-Augmentation Planned Charges for Guarantees as at the Effective Date;

"Post-Augmentation Up-front Guarantee Charge" means the amount to be transferred by the Transferor to the Transferee to cover the expected cost of meeting all the guarantees under the Transferring Policies and Excluded Policies throughout their remaining projected lifetime, after deduction of the value of future on-going charges for those guarantees at the rate of 0.5 per cent per annum of the Aggregate Asset Share, calculated taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*), being the amount given by:

(a) the Post-Augmentation Uncalibrated Up-front Guarantee Charge;

MINUS

(b) the Post-Augmentation Calibration Amount;

"Post-Augmentation Valuation Data Report" has the meaning given in paragraph 5.1(a) of Schedule 5 (*Adjustment and Augmentation*);

"Post-Smoothing Non-Guaranteed Income" means:

(a) in respect of a Transferring Policy or an Excluded Policy, the amount of income calculated in accordance with the established practice for the calculation of post-smoothing non-guaranteed income (being initially the established practice of the Transferor but subject to changes from time to time made by the Transferee consistently with applicable law and regulation and with the consent of the Transferee With-Profits Committee), and after the application of smoothing in accordance with the Principles of Financial Management, which would be paid to

the policyholder thereunder if the Transferring Policy or Excluded Policy contained no provision for payment of Guaranteed Income;

- (b) in respect of a payment made under a Transferring Policy or an Excluded Policy, the amount that that payment would be, calculated in accordance with the established practice for the calculation of post-smoothing non-guaranteed income (being initially the established practice of the Transferor but subject to changes from time to time made by the Transferee consistently with applicable law and regulation and with the consent of the Transferee With-Profits Committee), and after the application of smoothing in accordance with the Principles of Financial Management, if the Transferring Policy or Excluded Policy contained no provision for payment of Guaranteed Income;

"Post-Smoothing Payment Amount" has the meaning given in paragraph 7.3(d) of the Principles of Financial Management;

"Pre-Augmentation Aggregate Initial Asset Share" means the amount that would be required to be transferred by the Transferor to the Transferee on the Effective Date for the purposes of the establishment by the Transferee of the Individual Asset Shares of the Transferring Policies and the Excluded Policies if there were no augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*), being the amount given by:

- (a) £1,733,300,000;

MULTIPLIED BY

- (b) the amount of reserves required to fund the total Pre-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy, calculated ignoring any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*) and using the Core Reserving Basis and the Transferor Model and as at the Effective Date;

DIVIDED BY

- (c) £1,732,700,000;

"Pre-Augmentation Calibration Amount" means as at the Effective Date, the amount given by:

- (a) £5,100,000;

MULTIPLIED BY

- (b) the aggregate of the amount calculated under paragraph (b) of the definition of Pre-Augmentation Intrinsic Value of Guarantees and the amount calculated under paragraph (b) of the definition of Pre-Augmentation Time Value of Guarantees in each case calculated using the Transferor Model and as at the Effective Date;

DIVIDED BY

- (c) £121,100,000;

"Pre-Augmentation Effective Date Database" has the meaning given in paragraph 4.5 of Schedule 5 (*Adjustment and Augmentation*);

"Pre-Augmentation Intrinsic Value of Guarantees" means the amount given by:

- (a) £58,300,000;

MULTIPLIED BY

- (b) the present value over the projected future lifetime of all Transferring Policies and Excluded Policies of expected excess payments where the Guaranteed Income in respect of a Transferring Policy or an Excluded Policy exceeds the Pre-Smoothing Non-Guaranteed Income in respect thereof, calculated ignoring stochastic variation and using the Transferor Model and as at the Effective Date, without taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*); it is acknowledged that this calculation assumes that the assets backing the Transferring Policies and the Excluded Policies earn the risk free yield curve as defined in the Stochastic Reserving Basis, and all cashflows are discounted to a present value using an equivalent risk free rate;

DIVIDED BY

- (c) £58,300,000;

"Pre-Augmentation Mortality Premium" means the amount that would be required to be transferred by the Transferor to the Transferee on the Effective Date in consideration of the assumption by the Transferee of mortality risk in respect of the Transferring Policies and the Excluded Policies in accordance with the provisions of the Scheme if there were no augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*), being the amount given by:

- (a) the Pre-Augmentation Aggregate Initial Asset Share;

MULTIPLIED BY

- (b) £17,000,000;

DIVIDED BY

(c) £1,732,700,000;

"Pre-Augmentation Planned Charges for Guarantees" means, as at the Effective Date, the amount which is given by:

(a) £63,700,000;

MULTIPLIED BY

(b) the net present value of the proposed charges for guarantees to be made over the lifetime of the Transferring Policies and the Excluded Policies, calculated using the Stochastic Reserving Basis and the Transferor Model and as at the Effective Date, without taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*);

DIVIDED BY

(c) £64,200,000;

"Pre-Augmentation Time Value of Guarantees" means the amount given by:

(a) £70,700,000;

MULTIPLIED BY

(b) the present value over the projected future lifetime of all Transferring Policies and Excluded Policies over and above that already reflected in the Pre-Augmentation Intrinsic Value of Guarantees, of expected excess payments where the Guaranteed Income in respect of a Transferring Policy or an Excluded Policy exceeds the Pre-Smoothing Non-Guaranteed Income in respect thereof allowing for stochastic variation, calculated using the Stochastic Reserving Basis and the Transferor Model and as at the Effective Date, without taking into account any augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof in accordance with Schedule 5 (*Adjustment and Augmentation*);

DIVIDED BY

(b) £62,800,000;

"Pre-Augmentation Transfer Amount" means the aggregate of the Pre-Augmentation Aggregate Initial Asset Share, the Pre-Augmentation Up-front Guarantee Charge and the Pre-Augmentation Mortality Premium;

"Pre-Augmentation Uncalibrated Up-front Guarantee Charge" means, as at the Effective Date, the amount given by:

(a) the Pre-Augmentation Intrinsic Value of Guarantees as at the Effective Date;

PLUS

(b) the Pre-Augmentation Time Value of Guarantees as at the Effective Date;

MINUS

(c) the Pre-Augmentation Planned Charges for Guarantees as at the Effective Date;

"Pre-Augmentation Up-front Guarantee Charge" means the amount given by:

(a) the Pre-Augmentation Uncalibrated Up-front Guarantee Charge;

MINUS

(b) the Pre-Augmentation Calibration Amount;

"Pre-Smoothing Non-Guaranteed Income" means:

(a) in respect of a Transferring Policy or an Excluded Policy, the amount of income calculated in accordance with the practice of the Transferee (such practice subject to changes from time to time made by the Transferee consistently with applicable law and regulation and with the consent of the Transferee With-Profits Committee) for the calculation of pre-smoothing non-guaranteed income on the Transferring Policies which would be paid to the policyholder thereunder if the Transferring Policy or Excluded Policy contained no provision for payment of Guaranteed Income and if smoothing did not apply;

(b) in respect of a payment made under a Transferring Policy or an Excluded Policy, the amount that that payment would be, calculated in accordance with the practice from time to time used by the Transferee (such practice subject to changes from time to time made by the Transferee consistently with applicable law and regulation and with the consent of the Transferee With-Profits Committee) for the calculation of pre-smoothing non-guaranteed income on the Transferring Policies, if the Transferring Policy or Excluded Policy contained no provision for payment of Guaranteed Income and if smoothing did not apply;

"Pre-Smoothing Payment Amount" has the meaning given in paragraph 7.3(d) of the Principles of Financial Management;

"Principles of Financial Management" means the principles of financial management set out in Schedule 2;

Provisional Errors List" has the meaning given in paragraph 3.1 of Schedule 5 (*Adjustment and Augmentation*);

"Quotation Valuation Data Report" means the Valuation Data Report provided by the Transferor to the Transferee and included on a Compact Disc initialled on behalf of the parties on 14 March 2007 for purposes of identification, being policy data information as at 31 December 2006;

"Records" means all documents, files and other records, whether in physical or electronic form, relating to the Transferring Policies, the Transferring Assets, the Residual Assets, the Transferring Liabilities and the Residual Liabilities which are in the possession of, or under the control of, the Transferor;

"Regulatory Authority" means the Insurance Regulator or any other regulatory body in any jurisdiction with authority with respect to the Transferring Policies or the Excluded Policies;

"Residual Assets" means:

- (a) any property of the Transferor (including, without limitation, any right, benefit or power of the Transferor under any Transferring Policy) to be transferred pursuant to this Scheme or either of the Overseas Schemes:
 - (i) the transfer of which to the Transferee pursuant to this Scheme requires, at the Effective Date, either:
 - (1) the consent of any person (other than the Transferee, the Transferor or the Court or any Overseas Court whose order would be necessary to effect the transfer thereof); or
 - (2) the waiver by any person of any right to acquire, or to be offered the right to, or to offer to, acquire or procure the acquisition by some other person of, all or any part of such property, being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; and
 - (ii) which the Court or any Overseas Court whose order would be necessary to effect the transfer thereof does not have jurisdiction to transfer pursuant to section 112(1)(a) of the FSMA or any corresponding provision of any Overseas Law or which (despite having such jurisdiction) the Court or such Overseas Court determines, notwithstanding section 112(2)(a) of the FSMA or any corresponding provision of any Overseas Law, not so to transfer or the transfer of which is not recognised by the laws of any relevant jurisdiction in which such property is situated;

- (b) any property of the Transferor to be transferred pursuant to this Scheme (including, without limitation, any right, benefit or power under a Transferring Policy) which the Transferor and the Transferee agree in writing prior to the Effective Date shall not be transferred on the Effective Date;
- (c) any property of the Transferor which the Transferor and the Transferee shall agree in writing prior to the Effective Date should be transferred pursuant to this Scheme in conjunction with any property referred to in paragraphs (a) or (b) of this definition; and
- (d) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, earned or received from time to time after the Effective Date in respect of any property referred to in paragraphs (a), (b) or (c) of this definition;

"Residual Liability" means any liability:

- (a) under the Transferring Policies and the Transferring Assets the transfer of which liability to the Transferee pursuant to this Scheme or either of the Overseas Schemes requires, as at the Effective Date, the consent or waiver of any person (other than the Transferee, the Transferor or the Court or any Overseas Court whose order would be necessary to effect the transfer thereof) and which the Court or any Overseas Court whose order would be necessary to effect the transfer thereof either does not have jurisdiction to transfer to the Transferee pursuant to section 112(1)(a) of the FSMA or any corresponding provision of any Overseas Law or which (despite having such jurisdiction) the Court or such Overseas Court determines, notwithstanding section 112(2)(a) of FSMA or any corresponding provision of any Overseas Law, not so to transfer; or
- (b) which is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to that Residual Asset,

but excluding the Excluded Liabilities;

"Scheme" means this Scheme in its original form or with or subject to any modification, addition or condition which may be approved or imposed in accordance with paragraph 18 (*Modifications or additions*);

"Smoothing Cap" means the maximum percentage by which the Post-Smoothing Non-Guaranteed Income in respect of a Transferring Policy or Excluded Policy may rise in any year, determined in accordance with paragraph 7.1(b) of the Principles of Financial Management;

"Smoothing Cost" has the meaning given in paragraph 7.3(e) of the Principles of Financial Management and, for the avoidance of doubt, a "Smoothing Cost" may be negative;

"Stochastic Reserving Basis" means the reserving basis set out in Part II of Schedule 4;

"Subsequent Transfer Date" means, in relation to any Residual Asset or Residual Liability, the date after the Effective Date on which such Residual Asset or Residual Liability is to be transferred to the Transferee, namely:

- (a) in respect of any Residual Asset falling within paragraph (a) of the definition thereof, and of any Residual Liability falling within paragraph (a) of the definition thereof, the date on which the requisite consent, waiver or order to enable the same to be transferred to the Transferee upon the terms of this Scheme is:
 - (i) obtained;
 - (ii) no longer required; or
 - (iii) dispensed with by order of the Court or any Overseas Court where such order is sufficient to effect the transfer thereof;
- (b) in respect of any Residual Asset falling within paragraphs (b) or (c) of the definition thereof and of any Residual Liability which falls within paragraph (b) of the definition thereof, the date on which the parties agree that the transfer shall take effect; and
- (c) in the case of any Residual Asset falling within paragraph (d) of the definition thereof, the date on which such Residual Asset is received or earned by the Transferor;

"SUP" means the Supervision Manual issued by the Insurance Regulator;

"Target Equity Backing Ratio" means the percentage set by the board of directors of the Transferee as the target for the percentage of the value of the Transferee WPSF Asset Pool which should be constituted by equities, real property and other investments having projected investment returns characteristic of equities and real property (as distinct from cash and bonds and investments having projected investment returns characteristic of cash and bonds);

"Tax" or "Taxation" means all forms of tax, duty, rate, levy, charge or other imposition or withholding in the nature of tax whenever or by whatever authority imposed and whether of the United Kingdom or elsewhere, including, without limitation, any tax on gross or net income, profit or gains, income tax required to be deducted or withheld from or accounted for in respect of any payment, corporation tax, advance corporation tax, capital gains tax, inheritance tax, wealth taxes, value added tax, customs duties, excise duties, insurance

premium tax, rates (including, without limitation, the uniform business rate), stamp duty, capital duty, stamp duty reserve tax, stamp duty land tax, PAYE, national insurance and other similar contributions, any payments in respect of policyholder taxation (including any charge under Chapter V of Part 4 of the Finance Act 2004), any liability arising under section 419, section 601, section 703 or section 747 of the Taxes Act and any other taxes, duties, rates, levies, charges, imposts or withholdings corresponding to, similar to, in the nature of, replaced by or replacing any of them, together with any interest, penalty or fine in connection with any taxation and regardless of whether any such taxes, duties, rates, levies, charges, imposts, withholdings, interest, penalties or fines are chargeable directly on either party or any other person and of whether any amount in respect of them is recoverable from any other person;

"Tax Clearances" means, save to the extent that the parties agree to waive the requirement to obtain any clearance, confirmation or ruling, the following:

- (a) clearance from HM Revenue & Customs that no notice under section 703 of the Taxes Act would be issued in respect of the transfer of the Transferring Policies and the Transferring Assets or the associated transactions;
- (b) confirmation from HM Revenue & Customs that:
 - (i) the tax status of the Transferring Policyholders and the Transferring Policies and any pension scheme pursuant to which the Transferring Policies are or were issued will not be adversely affected by the Scheme; and
 - (ii) when annuities are payable on or after the Effective Date by the Transferee under a Transferring Policy to persons resident abroad, any directions previously given to the Transferor under the Double Tax Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488) to allow them to be paid gross should be treated as having been given to the Transferee; [and]
- (c) a written ruling from HM Revenue & Customs confirming that the Scheme will be treated as a transfer of a going concern for the purposes of section 49(1) of VATA and article 5 of the Value Added Tax (Special Provisions) Order 1995 (SI1995/1268) or that the transactions contemplated by the Transaction Agreements are supplies of services which are either otherwise outside the scope of VAT or exempt from VAT; and that no VAT will be chargeable on any payment made pursuant to paragraph 16;

"Taxes Act" means the Income and Corporation Taxes Act 1988;

"Transferee" means The Prudential Assurance Company Limited, a company incorporated in England and Wales with registered number 00015454, whose registered office is at Laurence Pountney Hill, London, EC4R 0HH;

"Transferee Actuary" means the Actuary of the Transferee;

"Transferee Board" means the Board of the Transferee;

"Transferee DCPSF" means the sub-fund forming part of the Transferee Long-Term Insurance Fund that is known as the 'Defined Charges Participating Sub-Fund';

"Transferee Group" means the Transferee and any of its holding companies from time to time and any of its or their subsidiaries from time to time;

"Transferee Long-Term Insurance Fund" means the fund comprising the assets separately identified by the Transferee in accordance with INSPRU 1.5.18;

"Transferee NPSF" means the sub-fund forming part of the Transferee Long-Term Insurance Fund that is known as the 'Non-Profit Sub-Fund';

"Transferee PPFM" means the principles and practices of financial management of the Transferee from time to time established, maintained and recorded under section 6.10 of the Conduct of Business Sourcebook;

"Transferee With-Profits Committee" means the committee of the Transferee established in accordance with COB 6.11.6 or any successor body or person which undertakes its functions or any of them at any time;

"Transferee WPSF" means the sub-fund forming part of the Transferee's Long-Term Insurance Fund that is known as the 'With-Profits Sub-Fund';

"Transferee WPSF Asset Pool" means:

- (a) on the Effective Date, the assets in the Transferee WPSF covering the greatest number of the Transferee's with-profits policies allocated thereto, including all of the Transferee's with-profits annuity policies; and
- (b) subsequently, the pool of assets covering the greatest number of the Transferee's with-profits policies unless, in the opinion of the Transferee With-Profits Committee, it would be unfair to the holders of the Transferring Policies to treat that pool of assets as the Transferee WPSF Asset Pool, in which case, the Transferee WPSF Asset Pool will be the pool of assets whose investment profile is, in the opinion of the Transferee With-Profits Committee, most fair to the holders of the Transferring Policies;

"Transferor" means The Equitable Life Assurance Society, an unlimited company incorporated in England and Wales with registered number 37038, whose registered office is at 20-22 Bedford Row, London WC1R 4JS;

"Transferor Actuary" means the Actuary of the Transferor;

"Transferor Board" means the Board of the Transferor;

"Transferor Group" means the Transferor and its subsidiaries from time to time;

"Transferor Model" means the actuarial model used by the Transferor for the purposes of determining the amounts shown in paragraph (c) of each of the definitions of "Post-Augmentation Intrinsic Value of Guarantees", "Post-Augmentation Planned Charges for Guarantees", "Post-Augmentation Aggregate Initial Asset Share", "Pre-Augmentation Aggregate Initial Asset Share" and "Post-Augmentation Time Value of Guarantees", as amended from time to time by agreement of the parties;

"Transferring Annuitant" means a person who is alive on the Effective Date and who is described in a Transferring Policy as a person on whose survival all or some payments of income from that Transferring Policy will depend or could depend;

"Transferring Assets" means all of the following whatsoever and wheresoever situated as at the Effective Date:

- (a) the rights, benefits and powers of the Transferor under or by virtue of the Transferring Policies;
- (b) the Aggregate Initial Asset Share Transferring Assets, the Up-front Guarantee Charge Transferring Assets and the Mortality Premium Transferring Assets; and
- (c) the Records, including, without limitation, all rights, title and interest of the Transferor in the Records,

but excluding the Residual Assets and any rights, benefits and powers under the Excluded Policies;

"Transferring Business" means the annuity business of the Transferor to be transferred pursuant to this Scheme or either of the Overseas Schemes, comprising the Transferring Policies, the Transferring Assets, the Residual Assets, the Transferring Liabilities and the Residual Liabilities;

"Transferring Liabilities" means the liabilities of the Transferor as at the Effective Date under the Transferring Policies and the Transferring Assets but excluding the Residual Liabilities, the Excluded Liabilities and any liabilities under or relating to the Excluded Policies;

"Transferring Policies" means the policies of the Transferor set out in the Final Policy List:

- (a) other than any Excluded Policy, any Expired Policy and any Ineligible Policy; and
- (b) save to the extent that such policies constitute Excluded Liabilities;

"Transferring Policies Bonus Series" means a new bonus series to be created by the Transferee for the Transferring Policies and the Excluded Policies under paragraph 1 of the Principles of Financial Management;

"Transferring Policies Smoothing Account" means the smoothing account to be maintained in the Transferee WPSF from the Effective Date for the purposes of providing smoothing in accordance with the Principles of Financial Management in respect of the Transferring Policies and the Excluded Policies;

"Transferring Policyholder" means any policyholder under a Transferring Policy;

"UK Post-GAF Purchased Life Annuity Policy" means a policy which, immediately prior to the Effective Date, formed part of the Transferor's Basic Life Assurance and General Annuity Business in the United Kingdom and which was effected with the Transferor after 31 December 1991;

"Up-front Guarantee Charge Transferring Assets" means the assets referred to as such in the Assets List, as adjusted in accordance with Schedule 3;

"Valuation Data Report" means a summary valuation model point data report relating to the Transferring Policies and the Excluded Policies in a form agreed in writing between the parties;

"VAT" means value added tax or any equivalent tax;

"VATA" means the Value Added Tax Act 1994;

"With-Profits Actuary" means the person appointed by the Transferor from time to time to perform the duties set out in SUP 4.3.16A;

"WPA Allocated Amount" has the meaning given in paragraph 2.3 and is calculated in accordance with paragraph 7 of Schedule 5 (*Adjustment and Augmentation*);

"WPA Business" means the business of the Transferor consisting in carrying out the Transferring Policies and the Excluded Policies and activities directly arising from that business;

"WPA Portfolio" has the meaning given in paragraph 7.2 of Schedule 5 (*Adjustment and Augmentation*);

"**WPBR**" has the meaning given in paragraph 7.2 of Schedule 5 (*Adjustment and Augmentation*); and

"**WPSF Adjustment Amount**" has the meaning given in paragraph 5.1(e) of Schedule 5 (*Adjustment and Augmentation*).

1.2 In this Scheme:

- (a) "**property**" includes, without limitation, property, assets, cash, claims, causes of action, rights and powers of every description (whether present or future, actual or contingent), including, without limitation, income or interest accrued but unpaid, and includes property held on trust and securities, benefits, powers of any description and any interest whatsoever in any of the foregoing;
- (b) "**liabilities**" includes, without limitation, duties and obligations of every description (whether present or future, actual or contingent);
- (c) "**transfer**" includes (as the context may require) "assign", "assignment" or "assignment", "dispose" or "disposal" or "convey" or "conveyance";
- (d) references to rights or liabilities being "**under**" a Transferring Policy or Excluded Policy shall mean rights or liabilities under the contractual terms of that Transferring Policy or Excluded Policy;
- (e) any reference to the singular shall include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine and neuter and vice versa;
- (f) unless otherwise specified, any reference to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation;
- (g) any reference to any rules or regulations issued by the Insurance Regulator shall be deemed to include a reference to such rules or regulations as amended or replaced from time to time;
- (h) references to "**holding company**" and "**subsidiary**" shall have the same meanings as in the Companies Act 1985;
- (i) references to a "**policy**" and a "**policyholder**" shall have the meanings ascribed to them by the Financial Services and Markets Act 2000 (meaning of "Policy" and "Policyholder") Order 2001 as at the Effective Date;

- (j) in relation to a single legal contract of insurance which provides for benefits some of which are with-profits annuity benefits and some of which are benefits which are not with-profits annuity benefits, the part of the contract which provides for with-profits annuity benefits shall be a "**policy**" and the part of the contract which provides for the other benefits shall be a "**policy**", and references to "**policy**" shall be construed to each part separately and not as including both parts together;
- (k) save where the context otherwise requires, references to paragraphs and Parts are to paragraphs and Parts respectively of this Scheme and references to Schedules are to Schedules to this Scheme and references to this Scheme include the Schedules;
- (l) headings are inserted for convenience only and shall not affect the construction of this Scheme;
- (m) any reference to a person shall include a reference to a body corporate, a partnership (whether or not having separate legal personality), an unincorporated association or to a person's executors or administrators, and for the avoidance of doubt, shall include a trustee;
- (n) if a period of time is specified from a given day or date or from the day or date of an actual event, it shall be calculated exclusive of that day or date;
- (o) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (p) the expression "**variation**" shall include any variation, supplement, deletion, replacement or termination, however effected; and
- (q) any reference to an amount shall be exclusive of any applicable VAT.

SCHEDULE 2

PRINCIPLES OF FINANCIAL MANAGEMENT

1. **The Transferring Policies Bonus Series**

On the Effective Date, the Transferee will create a new bonus series (the "**Transferring Policies Bonus Series**") and the Transferring Policies will be allocated to and form the Transferring Policies Bonus Series. The Transferring Policies Bonus Series will not be merged or amalgamated with any other bonus series and no other policies, in whole or in part, will be allocated to the Transferring Policies Bonus Series. None of the Transferring Policies will be transferred from the Transferring Policies Bonus Series at any time after the Effective Date.

2. **Income after the Effective Date**

2.1 Immediately following the Effective Date (and, for the avoidance of doubt, this reference to Effective Date shall refer to the time and date in the definition of "Effective Date"):

- (a) each Transferring Policy will have the same level of Guaranteed Income as it had immediately prior to the Effective Date;
- (b) each Transferring Policy will have a level of Post-Smoothing Non-Guaranteed Income equal to the level of Post-Smoothing Non-Guaranteed Income in respect thereof immediately prior to the Effective Date; and
- (c) until a new bonus rate is announced by the Transferee with respect to the Transferring Policies on or after the Effective Date, any bonus rate, interim or otherwise, which is applicable to the policy immediately prior to the Effective Date will continue to apply.

2.2 The rates from time to time determined by the Transferee as the rates of Non-Guaranteed Bonus to be applied to the Transferring Policies will be applied in determining the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy in accordance with the established practice for the calculation thereof (being initially the established practice of the Transferor but subject to changes from time to time made by the Transferee consistently with applicable law and regulation and with the consent of the Transferee With-Profits Committee).

3. **Maintenance of separate Asset Shares for the Transferring Policies**

The Individual Asset Shares attaching to the Transferring Policies shall be maintained separately from the asset shares of all other policies of the Transferee. The Transferring Policies shall have no exposure to, and shall incur no adjustment for, profits and losses arising from the Transferee's other policies, experience or business activities (save to the

extent of unavoidable indirect exposure as a result of the effects of such profits and losses on the Transferee's overall financial position).

4. Exhaustion of Aggregate Asset Share over the lifetime of the Transferring Policies

- (a) The Transferee will determine the amounts of Pre-Smoothing Non-Guaranteed Income in respect of the Transferring Policies in a manner calculated to exhaust the Aggregate Asset Shares (including any adjustment of the Aggregate Asset Share as a result of the Aggregate Augmentation Amount) of the Transferring Policies over the lifetime of the Transferring Policies, allowing for the Transferee's expectations of future mortality, in line with the Transferee PPFM from time to time. The Transferee will allow for its expectations of future mortality by using a mortality basis which the Transferee With-Profits Committee confirms at the start of each calendar year to be a best estimate basis for the Transferring Policies (without any known margins for prudence) for expected mortality during the remaining lifetimes of the Transferring Policies.
- (b) Bonuses announced and paid on the Transferring Policies will be calculated with the aim of fully distributing the achieved returns on the underlying investments over the time the Transferring Policies are in force, allowing for smoothing of the peaks and troughs of investment performance in accordance with paragraph 7 (*Smoothing*) of these Principles of Financial Management and other factors more fully described below.
- (c) The Aggregate Asset Share held in the Transferee DCPSF will only fund such part of any payment made under a Transferring Policy as constitutes the Pre-Smoothing Non-Guaranteed Income in respect of such payment, and not any additional amount by which the Guaranteed Income in respect of such payment exceeds the Pre-Smoothing Non-Guaranteed Income in respect of such payment.
- (d) For any Transferring Policy an Incurred Cost of Guarantee may occur whenever a payment is made under the policy. The Incurred Cost of Guarantee in respect of any payment is the Guaranteed Income in respect of that payment less the Pre-Smoothing Non-Guaranteed Income in respect of that payment, subject to a minimum of zero. The Transferee WPSF shall pay the Incurred Cost of Guarantee in respect of all payments under Transferring Policies.

5. Investment return of the WPSF Asset Pool to be credited to the Transferring Policies

- (a) The asset mix backing the Transferring Policies will be identical to the asset mix of the Transferee WPSF Asset Pool.

- (b) The Aggregate Asset Share will be credited in each year by a rate of investment return which (before deduction of charges and adjustments for any tax liability or credit in accordance with applicable tax legislation, but net of unrecoverable tax) is the same as the rate of investment return earned by the Transferee on the Transferee WPSF Asset Pool (net of unrecoverable tax) (the "**Gross Rate of Investment Return**"), and the Individual Asset Share of each Transferring Policy shall be credited accordingly.
- (c) In determining the investment return to be credited to the Individual Asset Share of any Transferring Policy, the Transferee may adjust the Gross Rate of Investment Return for any tax liability or credit of the Transferee arising out of or in consequence of that Transferring Policy in accordance with applicable tax legislation which is properly allocable to such Transferring Policy.
- (d) In determining the Gross Rate of Investment Return, the Transferee will not treat the Transferring Policies less favourably than it treats other policies for which the crediting of investment return to asset shares is determined by reference to the investment return of the Transferee WPSF Asset Pool and will not make adjustments for miscellaneous profits or losses or on account of smoothing.
- (e) Except as required by paragraph 8 of these Principles of Financial Management, the Transferee will not apply different rates of Non-Guaranteed Bonus to different Transferring Policies and will not apply different rates of Guaranteed Bonus to different Transferring Policies having the same GIR.
- (f) Asset pools other than the Transferee WPSF Asset Pool, with asset mixes different to the Transferee WPSF Asset Pool, may operate within the Transferee WPSF for certain specific categories of business but the Transferring Policies will not participate in the investment return of such asset pools.

6. **Mortality experience**

- (a) To the extent that actual payments of income on the Transferring Policies are less or more than expected in any calendar year because of heavier or lighter mortality than expected, the profit or loss shall be for the account of the Transferee WPSF, and such transfers shall be made between the Transferee DCPSF and the Transferee WPSF as are necessary to achieve this.
- (b) For the purposes of determining what annuity payments on the Transferring Policies are "expected" to be made in any period for the purposes of paragraph 6(a), the Transferee shall use the mortality basis or a combination of mortality bases which the Transferee With-Profits Committee has confirmed in advance of and for purposes of that period to be a best estimate basis or best estimate bases for the Transferring Policies (without any known margins for prudence) for

expected mortality during the remaining lifetimes of the Transferring Policies, and for this purpose the Transferee will ensure that the Transferee With-Profits Committee gives such a confirmation for an appropriate period not less than once per year and that, in so far as they relate to the same period, the mortality basis confirmed is the same as the mortality basis confirmed by the With-Profits Committee for purposes of paragraph 4(a).

- (c) At the end of each calendar year, the Transferee shall adjust the Individual Asset Shares of all the Transferring Policies which remain in force at that time in a manner which redistributes amongst those remaining policies, in a manner which is fair to all holders of those remaining policies having regard to these Principles of Financial Management, the amount of the Individual Asset Shares that would have been released or reduced if the actual incidence of deaths of Transferring Annuitants during such calendar year had exactly matched the expectations included in the mortality basis or mortality bases used for expected mortality in that calendar year in accordance with paragraph 6(b) of these Principles of Financial Management.
- (d) Subject to paragraph (e), the Transferee may from time to time adopt a different mortality basis for its management of the Transferring Policies representing its changed expectations of future mortality and the lifetime of Transferring Policies over which Individual Asset Shares are expected to be distributed in the form of Pre-Smoothing Non-Guaranteed Income.
- (e) The Transferee may only adopt a different mortality basis for its management of the Transferring Policies if the Transferee With-Profits Committee has given its consent, which the Transferee With-Profits Committee will only give if:
 - (i) it is satisfied that the new mortality basis to be adopted by the Transferee is fair to both the Transferring Policies and the Transferee WPSF and represents a best estimate basis for the expected future mortality experience of the Transferring Policies;
 - (ii) in forming its assessment for adopting a different basis (including for the purposes of paragraph (i) above), it has taken into account the historic mortality experience of the Transferring Policies as well as the expected future mortality experience of the Transferring Policies.
- (f) Where the Transferee adopts a different mortality basis for its management of the Transferring Policies, the following provisions may require a payment to be made from the Transferee WPSF to the Transferee DCPSF or from the Transferee DCPSF to the Transferee WPSF. On each occasion when the Transferee adopts a different mortality basis for its management of the Transferring Policies, the

Transferee With-Profits Committee shall consider whether the following provisions apply.

- (g) The Estimated Mortality Change shall be calculated, being the amount given by:
- (i) the Aggregate Policy Value at the time of the change in mortality basis, calculated using the Core Reserving Basis, including the mortality basis included in the Core Reserving Basis;
- MINUS
- (ii) the Aggregate Policy Value at the time of the change in mortality basis, calculated using the Core Reserving Basis but with the mortality basis therein replaced by the new mortality basis.
- (h) Where the Estimated Mortality Change is positive, the Mortality Impact shall be calculated as the percentage rate which, if applied on a compound basis as an annual increase to Post-Smoothing Non-Guaranteed Income from the time of the change in mortality basis onwards, would produce an increase in the Aggregate Policy Value equal to the Estimated Mortality Change (this valuation to be carried out using the Core Reserving Basis, but with the mortality basis therein replaced by the new mortality basis).
- (i) Where the Estimated Mortality Change is negative, the Mortality Impact shall be calculated as the percentage rate which, if applied on a compound basis as an annual reduction to Post-Smoothing Non-Guaranteed Income from the time of the change in mortality basis onwards, would produce a reduction in the Aggregate Policy Value equal to the absolute value of the Estimated Mortality Change (this valuation to be carried out using the Core Reserving Basis, but with the mortality basis therein replaced by the new mortality basis).
- (j) If the first such Mortality Impact is less than or equal to 0.50% per annum then the Non-Chargeable Mortality Transfer Amount will be zero and no payment shall be due in respect of it from the Transferee WPSF or the Transferee DCPSF.
- (k) If the first such Mortality Impact is greater than 0.50% per annum then the Non-Chargeable Mortality Transfer Amount will be calculated in accordance with paragraph 6(l) of these Principles of Financial Management, and:
- (i) if the Non-Chargeable Mortality Transfer Amount is negative, the Transferee WPSF will pay to the Transferee DCPSF an amount equal to the absolute value of the Non-Chargeable Mortality Transfer Amount, and the Aggregate Asset Share shall be increased by the absolute value of the Non-Chargeable Mortality Transfer Amount and the Individual

Asset Share of each Transferring Policy shall be increased proportionately; and

- (ii) if the Non-Chargeable Mortality Transfer Amount is positive, the Transferee DCPSF will pay to the Transferee WPSF an amount equal to the Non-Chargeable Mortality Transfer Amount, and the Aggregate Asset Share shall be reduced by the Non-Chargeable Mortality Transfer Amount and the Individual Asset Share of each Transferring Policy shall be reduced proportionately.
- (l) The Non-Chargeable Mortality Transfer Amount will be zero if the Mortality Impact is less than or equal to 0.50% per annum. Otherwise, the Non-Chargeable Mortality Transfer Amount will be calculated as the amount given by:
- (i) the Aggregate Policy Value at the time of the change in mortality basis calculated using the Core Reserving Basis, including the mortality basis included in the Core Reserving Basis;

MINUS

- (ii) the Aggregate Policy Value at the time of the change in mortality basis calculated using the Core Reserving Basis but with the mortality basis therein replaced by the new mortality basis and assuming, where the Estimated Mortality Change is positive, that an annual compound increase of 0.5% per annum is applied to the Post-Smoothing Non-Guaranteed Income from the time of the change in mortality basis onwards or, where the Estimated Mortality Change is negative, that an annual compound reduction of 0.5% per annum is applied to the Post-Smoothing Non-Guaranteed Income from the time of the change in mortality basis onwards.
- (m) Whenever a change is made to the mortality basis, the Mortality Impact shall be recalculated; the new Mortality Impact shall replace, not add to, any previous Mortality Impact, save that the previous Mortality Impact shall be used as described in paragraph 6(n)(i) below.
- (n) In the event that there has been a change in mortality basis which resulted in a Non-Chargeable Mortality Transfer Amount which was not zero and the mortality basis is subsequently changed again, the following will be calculated at the time of that subsequent change to the mortality basis:
- (i) the Non-Chargeable Mortality Transfer Amount that would apply for a change of the mortality basis from the mortality basis included in the Core Reserving Basis to the then current mortality basis as though it

were the first and only change in mortality basis since the Effective Date, but based on the Mortality Impact calculated at the time of the previous change ("**NCMTA_{Current}**"); and

- (ii) the Non-Chargeable Mortality Transfer Amount that would apply for a change of the mortality basis from the mortality basis included in the Core Reserving Basis to the new mortality basis as though it were the first and only change in mortality basis since the Effective Date ("**NCMTA_{New}**").

If $NCMTA_{Current}$ is greater than or equal to $NCMTA_{New}$ then a payment shall be made to the Transferee DCPSF from the Transferee WPSF in an amount given by:

(1) $NCMTA_{Current}$;

MINUS

(2) $NCMTA_{New}$,

and the Aggregate Asset Share shall be increased by the amount of the payment, and the Individual Asset Share of each Transferring Policy shall be increased proportionately.

If $NCMTA_{Current}$ is less than $NCMTA_{New}$ then a payment shall be made from the Transferee DCPSF to the Transferee WPSF in an amount equal to the absolute value of the amount given by:

(1) $NCMTA_{New}$;

MINUS

(2) $NCMTA_{Current}$,

and the Aggregate Asset Share shall be reduced by the amount of the payment and the Individual Asset Share of each Transferring Policy shall be reduced proportionately.

This process will be repeated every time there is a change in the mortality basis used by the Transferee for its management of the Transferring Policies.

7. **Smoothing**

7.1 Under normal circumstances, smoothing shall be applied in respect of the Transferring Policies according to the following principles:

- (a) Smoothing will operate to ensure that the amount of Post-Smoothing Non-Guaranteed Income in respect of a Transferring Policy, before allowing for the impact of the Guaranteed Income, shall not:

- (i) in the case of Low Start Annuity Policies:
 - (1) fall below its then current amount from time to time; or
 - (2) rise above its then current amount from time to time in any year by a percentage greater than the Smoothing Cap;

- (ii) in the case of Transferring Policies other than Low Start Annuity Policies:
 - (1) fall below its then current amount from time to time in any year by a percentage exceeding the percentage given by:

$$100\% \times \left[1 - \frac{1}{(1 + ABR) \times (1 + GIR)} \right]$$

where:

"*ABR*" means the anticipated bonus rate applicable under that Transferring Policy, expressed as a decimal; and

"*GIR*" means the guaranteed interest rate applicable under that Transferring Policy, expressed as a decimal; or

- (2) rise above its then current amount from time to time in any year by a percentage exceeding the percentage given by:

$$100\% \times \left\{ \left[\frac{(1 + SC)}{(1 + ABR) \times (1 + GIR)} \right] - 1 \right\}$$

where:

"*SC*" means the Smoothing Cap, expressed as a decimal; and
"*ABR*" and "*GIR*" have the meanings given in paragraph 7.1(a)(ii)(1).

- (b) The Smoothing Cap, which shall be capable of alteration by the Transferee with the approval of the Transferee With-Profits Committee, will initially be 11%. The level of the Smoothing Cap will be stated as a practice in the Transferee's PPFM.
- (c) Smoothing will also be applied as necessary to ensure the objective of gradual, rather than erratic, changes in bonus rates.

7.2 Greater flexibility in smoothing than is permitted by paragraph 7.1 of these Principles of Financial Management may be required in certain circumstances, for example following a significant fall or rise in market values (either sudden or over a period of years). In such situations, the Transferee may decide to vary the bonus smoothing limits referred to in

paragraph 7.1 to protect the overall interests of all policyholders of the Transferee. When determining whether smoothing rules and limits for the Transferring Policies should be changed, the Transferee will apply the same principles as it would for other with-profits business as stated in the Transferee PPFM from time to time, taking account of the balance of the Transferring Policies Smoothing Account.

- 7.3 The Transferee shall follow the following practices in respect of the Transferring Policies:
- (a) The Transferring Policies Smoothing Account will be held within the Transferee WPSF and will contain a nominal balance denominated in pounds sterling at all times (which balance may be positive or negative).
 - (b) Subject to paragraph 7.3(c) of these Principles of Financial Management:
 - (i) where the Pre-Smoothing Non-Guaranteed Income in respect of the Transferring Policies exceeds the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies, the balance of the Transferring Policies Smoothing Account will increase by the amount determined in accordance with paragraph 7.3(e) or 7.3(f) of these Principles of Financial Management, as applicable; and
 - (ii) where the Pre-Smoothing Non-Guaranteed Income in respect of the Transferring Policies is less than the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies, the balance of the Transferring Policies Smoothing Account will decrease by the amount determined in accordance with paragraph 7.3(e) or 7.3(f) of these Principles of Financial Management, as applicable.
 - (c) Except as provided in paragraph 7.3(h) of these Principles of Financial Management, the amount held in the Transferring Policies Smoothing Account will change if and only if the application of smoothing changes a payment actually made under a Transferring Policy from the amount that it would have been if smoothing had not been applied - by comparing (i) the higher of the Guaranteed Income and the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies with (ii) the higher of the Guaranteed Income and the Pre-Smoothing Non-Guaranteed Income in respect of the Transferring Policies.
 - (d) For any Transferring Policy at any time where a payment is made which is affected by the application of smoothing, the Pre-Smoothing Payment Amount shall be equal to the higher of the Guaranteed Income in respect of that payment and the Pre-Smoothing Non-Guaranteed Income in respect of that payment. The Post-Smoothing Payment Amount shall be equal to the higher of the Guaranteed Income in respect of that payment and the Post-Smoothing Non-Guaranteed Income in respect of that payment. If the Pre-Smoothing Payment Amount is not

equal to the Post-Smoothing Payment Amount there shall be a Smoothing Cost associated with the application of smoothing in relation to that payment.

- (e) Where there is a Smoothing Cost associated with the application of smoothing in relation to a payment and the Guaranteed Income in respect of that payment is less than the Pre-Smoothing Non-Guaranteed Income in respect of that payment, the Smoothing Cost shall be equal to:
 - (i) the greater of the Guaranteed Income in respect of that payment and the Post-Smoothing Non-Guaranteed Income in respect of that payment;

LESS

 - (ii) the Pre-Smoothing Non-Guaranteed Income in respect of that payment.
- (f) Where there is a Smoothing Cost associated with the application of smoothing in relation to a payment and the Guaranteed Income in respect of that payment is greater than the Pre-Smoothing Non-Guaranteed Income in respect of that payment, the Smoothing Cost shall be equal to:
 - (i) the Post-Smoothing Non-Guaranteed Income in respect of that payment;

LESS

 - (ii) the Guaranteed Income in respect of that payment,

subject to a minimum Smoothing Cost of zero.
- (g) Any Smoothing Cost, positive or negative, shall be DEDUCTED from the balance of the Transferring Policies Smoothing Account (so that the balance of the account is reduced where the Smoothing Cost is positive and increased where the Smoothing Cost is negative).
- (h) The Transferring Policies Smoothing Account will itself be adjusted by the Gross Rate of Investment Return and adjusted for any other tax liability or credit of the Transferee arising out of or in consequence of the Transferring Policies in accordance with applicable tax legislation, and reduced by charges as provided in paragraph 9.1(b) of these Principles of Financial Management.
- (i) The Transferring Policies Smoothing Account will have a value of zero at the Effective Date, and shall be managed with the ongoing aim that it should always tend to zero, subject to the need for short-term smoothing.

8. **Deferred Cost Policies**

The Transferee will make deductions from bonuses on Deferred Cost Policies of 0.5 per cent per annum for 2008, 2009 and 2010 (consistently with the practice of the Transferor prior to the Effective Date).

9. **Charges**

9.1 Notwithstanding any provisions contained in the policy conditions of the Transferring Policies and any representations, warranties or undertakings made before the Effective Date in relation to the Transferring Policies by any person other than the Transferee, the Transferee may impose charges on each Transferring Policy on the basis set out below:

(a) by way of arithmetic deduction from the gross investment return that would otherwise be credited to the Individual Asset Share of such Transferring Policy:

(i) 1.0% per annum of the Individual Asset Share throughout the lifetime of the policy for expenses, to be credited to the Transferee NPSF; and

(ii) a maximum of 0.5% per annum of the Individual Asset Share throughout the lifetime of the policy for the expected cost of guarantees, to be credited to the Transferee WPSF; and

(b) by way of arithmetic deduction from the gross investment return that would otherwise be applied to the Transferring Policies Smoothing Account of:

(i) 1.0% per annum of the balance of the Transferring Policies Smoothing Account for expenses, to be credited to the Transferee NPSF (or debited to the Transferee NPSF where the balance of the Transferring Policies Smoothing Account is negative); and

(ii) a maximum of 0.5% per annum of the balance of the Transferring Policies Smoothing Account for the expected cost of guarantees, to be credited to the Transferee WPSF (or debited to the Transferee WPSF where the balance of the Transferring Policies Smoothing Account is negative).

9.2 These charges may be applied irrespective of whether the Guaranteed Income in respect of the Transferring Policy exceeds the Pre-Smoothing Non-Guaranteed Income in respect of the Transferring Policy.

9.3 Subject to paragraphs 9.4 and 9.5, no other charges will be imposed on any Transferring Policy (whether by deduction from the Individual Asset Shares or the Aggregate Asset Share or from the Transferring Policies Smoothing Account or from bonuses or from gross investment return or otherwise), including without limitation in respect of investment management, transaction expenses arising from the transfer of the Transferring Policies to the Transferee, capital support provided for the benefit of such policies, whether from

the Transferee WPSF or otherwise, or mortality (but without prejudice to any requirement for the Transferee DCPSF to make payment to the Transferee WPSF in accordance with paragraph 6 of these Principles of Financial Management).

9.4 Paragraph 9.3 shall not prevent the Transferee from determining the gross investment return for the Transferring Policies in the same manner as it determines the gross investment return for other policies for which the crediting of investment return to asset shares is determined by reference to the investment return of the Transferee WPSF Asset Pool, provided that in determining the gross investment return for the Transferring Policies the Transferee shall make no deduction in respect of investment management, transaction expenses arising from the transfer of the Transferring Policies to the Transferee, capital support provided for the benefit of such policies, whether from the Transferee WPSF or otherwise, or mortality (but without prejudice to any requirement for the Transferee DCPSF to make payment to the Transferee WPSF in accordance with paragraph 6 of these Principles of Financial Management).

9.5 Notwithstanding this paragraph 9, the Transferee may make deductions from the Aggregate Asset Share or from the gross investment income that would otherwise be credited thereto:

- (a) in accordance with paragraph 16.7 of the Scheme; or
- (b) where it has suffered a loss in connection with the transfer to it of the WPA Business in respect of which it has a claim against the Transferor and, in the opinion of the Transferee With-Profits Committee, it is proper for all or part of such loss to be absorbed by the Transferring Policies because they would otherwise retain an improper benefit as a result of the circumstances which gave rise to the loss.

9.6 Without prejudice to future crediting to the Transferee NPSF of charges deducted under paragraph 9.1(a)(i) or 9.1(b)(i) of these Principles of Financial Management, any crediting of charges from the Transferee NPSF to the Transferee WPSF in accordance with paragraph 9.1(b)(i) will not give rise to any requirement for subsequent reimbursement to the Transferee NPSF.

10. **Changes in charges for guarantees**

(a) **Reduction**

If, at any time after the Effective Date, the Target Equity Backing Ratio is reduced by a material amount (being a reduction of the Target Equity Backing Ratio below a percentage which is an integral multiple of 5) either in a single step or series of steps then the reduction will be notified to the Transferee With-Profits Committee. The Transferee will produce recommendations as to whether there should be a

reduction in the on-going charges for guarantees for the Transferring Policies, and by how much they should be reduced, and the Transferee With-Profits Committee will review the Transferee's recommendations and consider whether the on-going charges for guarantees should be reduced. Any resulting reduction shall be applied on a consistent basis as between the Transferring Policies and the Transferee's other with-profits policies.

(b) Increase

If the ongoing charges for guarantees applied to the Transferring Policies have been reduced below the maximum level of 0.5% per annum pursuant to paragraph 10(a) of these Principles of Financial Management and subsequently the Target Equity Backing Ratio is increased by a material amount (being an increase of the Target Equity Backing Ratio above a percentage which is an integral multiple of 5) either in a single step or a series of steps then the increase will be notified to the Transferee With-Profits Committee. The Transferee will produce recommendations as to whether there should be an increase in the on-going charges for guarantees for the Transferring Policies, and by how much they should be increased, and the Transferee With-Profits Committee will review the Transferee's recommendations and consider whether the on-going charges for guarantees should be increased. Any resulting increase shall be applied on a consistent basis as between the Transferring Policies and the Transferee's other with-profits policies, save that the increase of the on-going charges for guarantees applied to the Transferring Policies will not be such as to increase these charges above the maximum level of 0.5% per annum permitted by paragraph 9 (*Charges*) of these Principles of Financial Management.

(c) Review of guarantee charges

Any review of the on-going charges for guarantees which is applied to any of the Transferee's with-profits policies will also include, on a consistent basis, a review of the on-going charges for guarantees applied to the Transferring Policies, in each case taking into account the amount of any up-front guarantee charge (including, in the case of the Transferring Policies, the Post-Augmentation Up-front Guarantee Charge). The Transferee will produce recommendations as to whether there should be an increase or a reduction in the on-going charges for guarantees for the Transferring Policies, and by how much they should be increased or reduced, and the Transferee With-Profits Committee will review the Transferee's recommendations and consider whether the on-going charges for guarantees should be increased or reduced. Any resulting increase or reduction in those charges as a result of such a review will be applied on a consistent basis as between the Transferring Policies and the Transferee's other with-profits policies, save that any increase in the on-going charges for guarantees applied to

the Transferring Policies will not be such as to increase these charges above the maximum level of 0.5% per annum permitted by paragraph 9 (*Charges*) of these Principles of Financial Management.

11. **Amendment of terms of management of the Transferring Policies**

The terms on which the Transferee will be permitted to manage the Transferring Policies may be amended in any of the following circumstances:

- (a) to the extent required to facilitate a restructuring of the long-term insurance fund of the Transferee provided that paragraphs 4, 5, 6, 8, 9 and 10 of these Principles of Financial Management are not amended, save that references to the Transferee WPSF and the Transferee NPSF may be replaced by references to any other funds or sub-funds of the Transferee, and provided that the effect of this Schedule is not changed to the material detriment of the Transferring Policies;
- (b) at any time after 2009 provided that paragraphs 4, 5, 6, 8, 9 and 10 of these Principles of Financial Management are not amended, save that references to the Transferee WPSF and the Transferee NPSF may be replaced by references to any other funds or sub-funds of the Transferee, and provided that the effect of these Principles of Financial Management is not changed to the material detriment of the Transferring Policies; or
- (c) to the extent required in order to enable the Transferee to comply with applicable law and regulation.

Any such amendment will require the approval of the Transferee With-Profits Committee and will be notified to the FSA in advance of the amendment taking effect.

12. **Application to Excluded Policies**

These Principles of Financial Management shall apply *mutatis mutandis* to the manner in which the Transferee is required to carry out its obligations in respect of the Excluded Policies under the Excluded Policies Reassurance Agreement and, except to the extent that the context otherwise requires, each reference in these Principles of Financial Management to the "Transferring Policies" shall be treated as being a reference to both the Transferring Policies and the Excluded Policies.

13. **Interim arrangements**

These Principles of Financial Management are subject, in respect of the first year following the Effective Date, to the Interim Arrangements.

14. Application of Uplift

- (a) On the Income Uplift Date, the Aggregate Asset Share of the Transferring Policies will be amended in accordance with paragraph 16.3(b) or paragraph 16.4 of the Scheme, as applicable.
- (b) Where the Aggregate Augmentation Amount is positive, the bonuses announced by the Transferee in respect of the Transferring Policies in 2009 shall be increased to distribute an amount corresponding to the full amount of the benefit received by the Transferee by reason of having received the Transferring Assets on the Effective Date but not having uplifted the Post-Smoothing Non-Guaranteed Income in respect thereof until the Income Uplift Date.
- (c) Where the Aggregate Augmentation Amount is negative, paragraph 16 of the Scheme will not result in a change in Post-Smoothing Non-Guaranteed Income. Accordingly, in the absence of this paragraph 14(c), the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies would exceed the amounts that the Aggregate Asset Share would normally have supported in accordance with these Principles of Financial Management. The amount of any resulting overpayments of income may be recovered by the Transferee by:
 - (i) reducing future bonuses of the Transferring Policies; and/or
 - (ii) with the approval of the Transferee With-Profits Committee, reducing the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies at any time on or after the Income Uplift Date.

15. Relaxation of the Scheme

- (a) Other than paragraph 9 (*Charges*) of these Principles of Financial Management, paragraph 14 of this Scheme (to the extent necessary to cause paragraph 9 (*Charges*) of these Principles of Financial Management to continue to apply) and any provision required for the interpretation of the foregoing paragraphs, all of which shall continue to apply until all of the Transferring Policies have terminated, the Scheme shall, at the election of the Transferee, cease to apply at any time after the realistic liabilities of the Transferring Policies have fallen below the Minimum Threshold Amount.
- (b) Where the Transferee elects that the Scheme shall cease to apply under paragraph 15(a) of these Principles of Financial Management, any positive amount allocated to the Transferring Policies Smoothing Account will be distributed amongst the Transferring Policies by way of an enhancement to the Post-Smoothing Non-Guaranteed Income in respect thereof in a manner

considered to be fair in all the circumstances by the Transferee With-Profits Committee.

16. **Interest in the inherited estate of the Transferee WPSF**

The Transferring Policies will have no interest in any possible future distribution or reattribution of the inherited estate of the Transferee WPSF.

SCHEDULE 3

ADJUSTMENTS TO ASSETS INCLUDED ON THE ASSETS LIST

1. CHANGES TO TRANSFERRING ASSETS

- 1.1 In the event that, on the Effective Date, the quantity of any gilt, corporate bond, indirect real property investment or equity which is held by the Transferor falls short of the quantity shown on the Assets List as being included in the Transferring Assets, the required constitution of the Aggregate Initial Asset Share Transferring Assets and/or the Up-front Guarantee Charge Transferring Assets and/or the Mortality Premium Transferring Assets shall be adjusted so that:
- (a) the Transferor is only required to include such an amount of such gilt, corporate bond, indirect real property investment or equity as it holds on the Effective Date; and
 - (b) the Transferor is required to make up the shortfall by the inclusion of additional cash in the amount of the mid-market value of such gilt, corporate bond, indirect real property investment or equity as at close of business on 29 June 2007.
- 1.2 Where the gilt, corporate bond, indirect real property investment or equity in respect of which a shortfall arises under paragraph 1.1 of this Schedule 3 has been selected for inclusion as part of any two or three of the Aggregate Initial Asset Share Transferring Assets, the Up-front Guarantee Charge Transferring Assets and the Mortality Premium Transferring Assets, the quantity of that gilt, corporate bond, indirect real property investment or equity which is actually held by the Transferor on the Effective Date shall be allocated for purposes of paragraph 1.1 of this Schedule 3 as between the Aggregate Initial Asset Share Transferring Assets, the Up-front Guarantee Charge Transferring Assets and the Mortality Premium Transferring Assets in proportion to the notional amount of that gilt, corporate bond, indirect real property investment or equity which would have been included therein if there had been no shortfall, and paragraph 1.1 of this Schedule 3 shall apply accordingly in respect of the resulting shortfall in the Aggregate Initial Asset Share Transferring Assets and/or the Up-front Guarantee Charge Transferring Assets and/or the Mortality Premium Transferring Assets.
- 1.3 In the event that, on the Effective Date, the Transferor does not hold all or any part of any real property shown on the Assets List as being included in the Transferring Assets, the required constitution of the Aggregate Initial Asset Share Transferring Assets and/or the Up-front Guarantee Charge Transferring Assets and/or the Mortality Premium Transferring Assets shall be adjusted so that:

- (a) the Transferor is only required to include such part (if any) of such real property as it holds on the Effective Date; and
- (b) the Transferor shall replace that real property, or that part thereof which it no longer holds, by cash in an amount equal to the value determined most recently prior to 30 June 2007 for the purposes of its accounts (being mid-market value less selling costs) of that real property, or of that part thereof which it no longer holds.

2. **ASSETS DISCLOSURE LETTER**

- 2.1 Not less than five Business Days prior to the Effective Date, the Transferor shall deliver to the Transferee a letter providing details of any matters which it wishes to disclose in respect of any warranty given or deemed to be given by it in respect of the Transferring Assets, or stating that there is no such matter which it wishes to disclose (the "**Assets Disclosure Letter**").
- 2.2 Where the Transferor makes any disclosure in respect of any asset in the Assets Disclosure Letter, the Transferee shall be entitled at any time before the Effective Date to require the Transferor to replace such asset with cash in an amount equal to:
 - (a) where such asset is a gilt, corporate bond, indirect real property investment or equity, the mid-market value of such gilt, corporate bond, indirect real property investment or equity as at close of business on 29 June 2007; or
 - (b) where such asset is real property, the value determined most recently prior to 30 June 2007 for the purposes of the Transferor's accounts (being mid-market value less selling costs) of such real property.
- 2.3 Where the Transferee elects to require the Transferor to replace an asset with cash in accordance with paragraph 2.2 of this Schedule 3, the required constitution of the Aggregate Initial Asset Share Transferring Assets and/or the Up-front Guarantee Charge Transferring Assets and/or the Mortality Premium Transferring Assets shall be adjusted so that:
 - (a) the Transferor is not required to include such asset; and
 - (b) the Transferor shall replace that asset by cash in the amount required under paragraph 2.2 of this Schedule 3.

SCHEDULE 4

RESERVING BASES

PART I: CORE RESERVING BASIS

<i>Mortality Basis</i>	Male	Female
Base Table	PNMA00	PNFA00
Percentage of Base	89%	80%
Improvement Basis	(100% of Medium Cohort improvement rate) plus 0.5% pa Improvements applied from 2000	(75% of Medium Cohort improvement rate) plus 0.5% pa Improvements applied from 2000
<i>Interest Basis – Zero ABR cases</i>	GIR	
<i>Interest Basis – ABR cases</i>	$(1 + \text{GIR}) * (1 + \text{ABR}) - 1$	
<i>Date of Bonus Award and Interim Bonus</i>	<p>If the calculation date is the Effective Date or any prior date, the latest published methodology of the Transferor (including any applicable interim bonus methodology) as at the calculation date.</p> <p>If the calculation date is any date after the Effective Date, the latest published methodology of the Transferee (including any applicable interim bonus methodology) as at the calculation date, but subject to the Interim Arrangements.</p>	
<i>Age Definition</i>	<p>If the calculation date is the Effective Date or any prior date, the latest published methodology of the Transferor (including any applicable interim methodology) as at the calculation date.</p> <p>If the calculation date is any date after the Effective Date, the latest published methodology of the Transferee (including any applicable</p>	

	interim methodology) as at the calculation date, but subject to the Interim Arrangements.
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PART II: STOCHASTIC RESERVING BASIS

	The Stochastic Reserving Basis shall equal the Core Reserving Basis (as set out in Part I) with the additional terms set out below
<i>Equity Backing Ratio</i>	The Target Equity Backing Ratio as at the calculation date. The move of the Transferring Policies and the Excluded Policies from the existing equity backing ratio of the Transferor to the Target Equity Backing Ratio shall be assumed to take place instantaneously at the Effective Date, which for the purposes of all calculations carried out in advance of the Effective Date shall be assumed to be 31 December 2007, or such other date as is mutually agreed.
<i>Expense Allowance or Charge</i>	1% per annum of the Individual Asset Share of each Transferring Policy or Excluded Policy
<i>Ongoing Guarantee Charge</i>	0.5% per annum of the Individual Asset Share of each Transferring Policy or Excluded Policy (or a lesser amount to which it is reduced as provided in paragraph 10 of the Principles of Financial Management, subject to subsequent increase to a percentage not exceeding 0.5% as provided in paragraph 10 of the Principles of Financial Management)
<i>Yield curve and other economic assumptions</i>	The yield curve shall be a gilt yield curve. This and the other economic assumptions at any valuation date shall be determined using data sources, principles and methodology equivalent to that used to produce the amounts shown in paragraph (c) of each of the definitions of "Post-Augmentation Intrinsic Value of Guarantees", "Post-Augmentation Planned Charges for Guarantees", "Pre-Augmentation Aggregate Initial Asset Share" and "Post-Augmentation Time Value of Guarantees" and produced using the same calibration process, all of which shall be documented in a calibration report agreed by the parties or, in the event of a dispute, determined by reference to expert determination pursuant to Schedule 7 (<i>Dispute resolution procedure</i>). For all advance calculations, if the calculation date is other than 31 December, the assumptions as at the previous 31 December shall be used.

SCHEDULE 5

ADJUSTMENT AND AUGMENTATION

1. Adjustments after Effective Date

- 1.1 From the Effective Date until the Adjustment Payment Date, each of the Transferor and the Transferee shall maintain, separately from its policy administration systems, a database containing all the policy administration data relating to the Transferring Policies and the Excluded Policies as at the Effective Date in each case ignoring the effect of augmentation under this Schedule 5 (each, a version of the "**Effective Date Database**").
- 1.2 Each party shall only alter its version of the Effective Date Database as necessary to ensure that it is correct as at the Effective Date and not to reflect any changes in policy or policyholder details which occur after the Effective Date.
- 1.3 From the Effective Date until the Draft Final Data Date, the Transferee shall maintain a list (the "**Errors List**") containing details of:
- (a) errors in the Effective Date Database identified by the Transferor or the Transferee at any time prior to the Draft Final Data Date;
 - (b) policies which became Expired Policies prior to the Effective Date; or
 - (c) changes to the details of policies as a result of the occurrence of deaths or any other business as usual changes at any time prior to the Effective Date.
- 1.4 In the period following the Effective Date and up to and including the Draft Final Data Date, the Transferee will:
- (a) provide all reasonably necessary assistance to the Transferor to enable the Transferor to identify errors in the Effective Date Database; and
 - (b) comply with all reasonable instructions of the Transferor in relation to the identification or verification of deaths of policyholders under Transferring Policies which may have occurred prior to the Effective Date.
- 1.5 For the avoidance of doubt, the Transferee will be obliged to include items on the Errors List in accordance with paragraph 1.3 of this Schedule 5 whether or not the amendments would be economically in its favour.

2. Monthly updates

- 2.1 On or before the fifteenth day of each calendar month between the Effective Date and the Draft Final Data Date, the Transferee will provide to the Transferor:
- (a) an up-to-date version of the Errors List; and

(b) a report identifying the changes to the Errors List which have been made since the previous version of the Errors List was provided.

2.2 Following provision of the updated Errors List by the Transferee, each party will update its version of the Effective Date Database and, when updated, provide a copy of its version of the Effective Date Database to the other party and the parties will use reasonable endeavours to reconcile any differences.

3. **Provision of Provisional Errors List by the Transferee**

3.1 On the Draft Final Data Date, the Transferee will provide to the Transferor a copy of the latest version of the Errors List (the "**Provisional Errors List**") together with a certificate of its Actuarial Function Holder certifying that all information which the Provisional Errors List suggests is correct is reflected consistently in the Transferee's own policy administration systems.

3.2 The Transferor will have four weeks from the date on which the Transferee provides to the Transferor a copy of the Provisional Errors List and its Actuarial Function Holder's certificate pursuant to paragraph 3.1 of this Schedule 5 to challenge the Provisional Errors List as provided by the Transferee by notice in writing served on the Transferee, failing which the Provisional Errors List as provided by the Transferee will be final and binding on both parties. During the four week period, the Transferee will provide all information, explanations and demonstrations reasonably requested by the Transferor to enable the Transferor to understand each item on the Provisional Errors List and why any matter has not been included on the Provisional Errors List.

3.3 If the Transferor challenges the Provisional Errors List as provided by the Transferee by notice in writing served on the Transferee within the four week period referred to in paragraph 3.2 of this Schedule 5 and the parties are unable to resolve the matter within 20 Business Days of service of such notice in writing, the dispute will be resolved by reference to expert determination pursuant to Schedule 7 (*Dispute resolution procedure*).

3.4 The version of the Provisional Errors List which becomes final and binding under this paragraph 3 will be the "**Final Errors List**".

4. **Provision of copy of Effective Date Database by the Transferor**

4.1 Within four weeks of the date on which the Final Errors List becomes final and binding, the Transferor shall update the Effective Date Database to reflect each item shown in the Final Errors List.

4.2 On or before the end of the four week period referred to in paragraph 4.1 of this Schedule 5, the Transferor will provide to the Transferee a copy of the Effective Date Database as updated to reflect each item shown in the Final Errors List.

- 4.3 The Transferee will have four weeks from the date on which the Transferor provides to the Transferee a copy of the Effective Date Database pursuant to paragraph 4.2 of this Schedule 5 to challenge the Effective Date Database as provided by the Transferor by notice in writing served on the Transferor, failing which the Effective Date Database as provided by the Transferor will be final and binding on both parties. During the four week period, the Transferor will provide all information, explanations and demonstrations reasonably requested by the Transferee to enable the Transferee to understand the changes made by the Transferor to the Effective Date Database.
- 4.4 If the Transferee challenges the Effective Date Database as provided by the Transferor by notice in writing served on the Transferor within the four week period referred to in paragraph 4.3 of this Schedule 5 and the parties are unable to resolve the matter within 20 Business Days of service of such notice in writing, the dispute will be resolved by reference to expert determination pursuant to Schedule 7 (*Dispute resolution procedure*).
- 4.5 The version of the Effective Date Database which becomes final and binding under this paragraph 4 will be the "**Pre-Augmentation Effective Date Database**".

5. **Provision of documents, calculations and determinations by the Transferor**

- 5.1 Within four weeks of the date on which the Pre-Augmentation Effective Date Database becomes final and binding, the Transferor shall:
- (a) produce a Valuation Data Report as at the Effective Date which incorporates a value of the Post-Smoothing Non-Guaranteed Income payable under each Transferring Policy and each Excluded Policy which, where the Aggregate Augmentation Amount is positive, has been augmented by multiplying it by the Adjustment Percentage determined in accordance with paragraph 8 of this Schedule 5 (the "**Post-Augmentation Valuation Data Report**");
 - (b) on the basis of the Post-Augmentation Valuation Data Report, and thereby taking into account augmentation to the Post-Smoothing Non-Guaranteed Income in respect thereof determined in accordance with paragraph 8 of this Schedule 5, calculate:
 - (i) the Post-Augmentation Aggregate Initial Asset Share;
 - (ii) the Post-Augmentation Planned Charges for Guarantees;
 - (iii) the Post-Augmentation Intrinsic Value of Guarantees;
 - (iv) the Post-Augmentation Time Value of Guarantees;
 - (v) the Post-Augmentation Uncalibrated Up-front Guarantee Charge;
 - (vi) the Post-Augmentation Calibration Amount;

- (vii) the Post-Augmentation Up-front Guarantee Charge; and
 - (viii) the Post-Augmentation Transfer Amount;
- (c) provide to the Transferee copies of:
- (i) the Post-Augmentation Valuation Data Report;
 - (ii) details of its calculations used for the purposes of determining each of the amounts listed in paragraph (b), including details of its calculation for the purposes thereof of the amounts referred to in paragraph (b) of each of the definitions of "Post-Augmentation Intrinsic Value of Guarantees", "Post-Augmentation Planned Charges for Guarantees", "Pre-Augmentation Aggregate Initial Asset Share" and "Post-Augmentation Time Value of Guarantees";
 - (iii) a certificate of its Actuarial Function Holder certifying that the methods and procedures used to determine the grouping and model points used in the production of the Post-Augmentation Valuation Data Report are the same as those used for the production of the Quotation Valuation Data Report, save to the extent otherwise required by law or regulation or by agreement with the Transferee, and such certificate shall provide details of any differences in such methods and procedures; and
 - (iv) where necessary for the proper interpretation of the above calculations and where the Aggregate Augmentation Amount is positive, a copy of the Pre-Augmentation Effective Date Database in which the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy has been augmented by multiplying it by the Adjustment Percentage determined in accordance with paragraph 8 of this Schedule 5;
- and where the Aggregate Augmentation Amount is negative, the Transferor shall include in the Post-Augmentation Valuation Data Report details of what the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy would have been if it had been decreased by being multiplied by the Adjustment Percentage as at the Effective Date;
- (d) determine, and notify the Transferee of its determination of, the market value of the Transferring Assets, the Up-front Guarantee Charge Transferring Assets, the Aggregate Initial Asset Share Transferring Assets and the Mortality Premium Transferring Assets as at the Effective Date determined as follows (in each case, the "**Determined Market Value**" thereof):

- (i) in the case of gilts, corporate bonds, indirect real property investments and equities, as the mid-market value as at close of business on the Effective Date; and
 - (ii) in the case of real property, as the value determined most recently prior to the Effective Date for the purposes of the Transferor's accounts (being mid-market value less selling costs) of such real property, provided that such valuation shall be made on the same basis as the valuation provided by the Transferor to the Transferee for purposes of its selection of the Transferring Assets;
- (e) determine, and notify the Transferee of its determination of, the difference between:
- (i) the aggregate of the Post-Augmentation Up-front-Guarantee Charge and the Post-Augmentation Mortality Premium; and
 - (ii) the aggregate of the Determined Market Value of the Up-front-Guarantee Charge Transferring Assets and the Determined Market Value of the Mortality Premium Transferring Assets as at the Effective Date;
- (such difference, the "**WPSF Adjustment Amount**"); and
- (f) determine, and notify the Transferee of its determination of, the difference between the Post-Augmentation Aggregate Initial Asset Share and the Determined Market Value of the Aggregate Initial Asset Share Transferring Assets as at the Effective Date (the "**Aggregate Initial Asset Share Adjustment Amount**").

5.2 Subject to paragraph 5.4 of this Schedule 5, the Transferee will have four weeks from the date on which the Transferor provides to the Transferee the documents produced and calculations and determinations made by the Transferor under paragraph 5.1 of this Schedule 5 to challenge those documents, calculations and determinations by notice in writing served on the Transferor, failing which each of those documents, calculations and determinations, or such of them as are not challenged, shall be final and binding for the purposes of this paragraph 5. During the four week period, the Transferor will provide all information, explanations and demonstrations reasonably requested by the Transferee to enable the Transferee to understand how each of the same was produced or determined by the Transferor.

5.3 If the Transferee challenges any of the documents produced or calculations or determinations made by the Transferor under paragraph 5.1 of this Schedule 5 by notice in writing served on the Transferor within the four week period referred to in paragraph 5.2 of this Schedule 5 and the parties are unable to resolve the matter, and agree on final and

binding versions of the same for the purposes of this paragraph 5, within 20 Business Days of service of such notice in writing, the final and binding versions of the same for the purposes of this paragraph 5 will be determined by reference to expert determination pursuant to Schedule 7 (*Dispute resolution procedure*).

5.4 Unless the Transferor otherwise agrees, the Transferor's calculation of the WPA Allocated Amount shall be final and binding and shall not be open to challenge by the Transferee, and to the extent that any other calculation or determination is adjusted in accordance with paragraph 5.3 of this Schedule 5, the adjustment shall be such as leaves the WPA Allocated Amount as calculated by the Transferor.

6. **Calculations in the event that Aggregate Augmentation Amount is negative**

Where the Aggregate Augmentation Amount is negative, the calculations of the Post-Augmentation Aggregate Initial Asset Share, the Post-Augmentation Up-front Guarantee Charge and the Post-Augmentation Mortality Premium, and the calculations of each component of those calculations, shall be made as though the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy had been decreased by being multiplied by the Adjustment Percentage as at the Effective Date and, for the purposes of the definitions in Schedule 1 (*Definitions and Interpretation*), this multiplication shall be regarded as augmentation to the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy in accordance with this Schedule 5.

7. **Determination of WPA Allocated Amount**

7.1 The calculations stipulated below will be performed using:

- (a) actuarial methodologies consistent with those used or to be used by the Transferor to produce its most recent submission of annual FSA insurance returns on or preceding the Effective Date;
- (b) the Pre-Augmentation Effective Date Database; and
- (c) the Transferor's own actuarial assumptions applicable as at the Effective Date.

7.2 The WPA Allocated Amount will be calculated in accordance with the following formula:

$$F = A + B - C + D \quad (1)$$

Where:

“F” is the WPA Allocated Amount, calculated at the Effective Date;

“A” is that part of the Transferor's with-profits benefit reserve (the “**WPBR**”) which relates to the Transferring Policies and the Excluded Policies (the “**WPA Portfolio**”); for the purpose of determining this amount, the Transferor's

calculations to produce Line 31 of Form 19 of its annual FSA insurance returns will be repeated as at the Effective Date;

“B” is the WPA Share of Working Capital, calculated in accordance with paragraph 7.3 of this Schedule 5;

“C” is that part of the "value of planned deductions for the cost of guarantees" which relates to the WPA Portfolio; for the purpose of determining this amount, the Transferor's calculations to produce Line 35 of Form 19 of its annual FSA insurance returns will be repeated as at the Effective Date; and

“D” is that part of the "future cost of guarantees" which relates to the WPA Portfolio; for the purpose of determining this amount, the Transferor's calculations to produce Line 41 of Form 19 of its annual FSA insurance returns will be repeated as at the Effective Date.

7.3 The WPA Share of Working Capital will be calculated in accordance with the following formula:

$$B = \left[\frac{A}{E} \times G \right] - H \quad (2)$$

Where:

“A” is as defined in paragraph 7.2 of this Schedule 5;

“E” is the Transferor's total WPBR as at the Effective Date; for the purpose of determining this amount, the Transferor's calculations to produce Line 31 of Form 19 of its annual FSA insurance returns will be repeated as at the Effective Date;

“G” is the Transferor's total working capital at the Effective Date; for the purpose of determining this amount, the Transferor's calculations to produce Line 34 of FSA Form 19 of its annual FSA insurance returns will be repeated as at the Effective Date; and

“H” represents potential further adjustments required in order to allow for the fair allocation of expenses and provisions relating to the transfer of the Transferring Policies and the Transferring Assets and the associated arrangements and transactions, covering but not limited to the relevant share of the costs of the transaction, the removal from the remaining policies of the Transferor of exposure to mortality risk arising from the Transferring Policies and to tax due on part of the future investment returns attributable to Transferring Policies which are UK Post-GAF Purchased Life Annuity Policies, and the amount required to compensate the remaining policyholders of the Transferor for diseconomies of scale or any

other adjustment deemed appropriate by the Transferor after advice from the With-Profits Actuary.

8. Calculation of Adjustment Percentage

- 8.1 The “**Aggregate Augmentation Amount**” will equal the Aggregate Policyholder Entitlement and, where it is positive, will be the amount, calculated as at the Effective Date, available for the purpose of increasing the Post-Smoothing Non-Guaranteed Income in respect of the Transferring Policies and Excluded Policies. The allocation of any increase as between the Transferring Policies and Excluded Policies will be determined by the Transferor's board.
- 8.2 Where the Aggregate Augmentation Amount is positive, the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy will be multiplied by the Adjustment Percentage on the Income Uplift Date. The increased level of the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy will be the level on which all subsequent income payments and bonus additions in the Transferee are based.
- 8.3 The “**Adjustment Percentage**” will be a fixed percentage corresponding to the amount “ $(1+f) \times 100\%$ ”, being an amount calculated such that, had the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy been multiplied by a factor $(1+f)$ immediately prior to the Effective Date, the aggregate of the Post-Augmentation Aggregate Initial Asset Share and the Post-Augmentation Up-front Guarantee Charge and the Post-Augmentation Mortality Premium, calculated as at the Effective Date using the Stochastic Reserving Basis (that is, the Post-Augmentation Transfer Amount), would have been equal to the aggregate of the Aggregate Augmentation Amount and the Pre-Augmentation Aggregate Initial Asset Share and the Pre-Augmentation Up-front Guarantee Charge and the Pre-Augmentation Mortality Premium, calculated as at the Effective Date using the Stochastic Reserving Basis (that is, the WPA Allocated Amount).
- 8.4 Where the Aggregate Augmentation Amount is positive, the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy will be augmented in accordance with the following formula:

$$J = (1+f) \times I$$

Where:

“I” is the Post-Smoothing Non-Guaranteed Income at the Income Uplift Date before augmentation to income;

“J” is the Post-Smoothing Non-Guaranteed Income at the Income Uplift Date, after augmentation to income; and

“f” is as defined above.

8.5 In relation to Excluded Policies, the above principles will apply to the income payments to be reassured under the Excluded Policies Reassurance Agreement.

9. **Application of the Aggregate Augmentation Amount**

9.1 The Adjustment Percentage will be applied by the Transferor in producing the Post-Augmentation Valuation Data Report in accordance with paragraph 5.1 of this Schedule 5 as though the increase (if any) to the Post-Smoothing Non-Guaranteed Income in respect of each Transferring Policy and each Excluded Policy were to take effect immediately on the Effective Date (rather than on the Income Uplift Date).

9.2 For the avoidance of doubt, the Post-Augmentation Aggregate Initial Asset Share, calculated as at the Effective Date, will be higher than the Pre-Augmentation Aggregate Initial Asset Share if the Aggregate Augmentation Amount is positive and lower than the Pre-Augmentation Aggregate Initial Asset Share if the Aggregate Augmentation Amount is negative.

9.3 For the avoidance of doubt, the Post-Augmentation Up-front Guarantee Charge, calculated as at the Effective Date, will be lower than the Pre-Augmentation Up-front Guarantee Charge if the Aggregate Augmentation Amount is positive and higher than the Pre-Augmentation Up-front Guarantee Charge if the Aggregate Augmentation Amount is negative.

SCHEDULE 6

INTERIM ARRANGEMENTS

The following transitional arrangements will apply following the Effective Date:

1. Following the Effective Date, the Transferee will announce new interim bonus rates that will take effect from each of 1 January 2008, 1 February 2008, 1 March 2008 and 1 April 2008. Thereafter, the Transferee will announce new interim bonus rates that will take effect at intervals determined in its discretion which are fair to the holders of the Transferring Policies. For the avoidance of doubt, an interim bonus rate introduced with effect from a certain date for a specified group of Transferring Policies will apply to all policies within that group that have a policy anniversary on or after that date, until but not including the date from which it is replaced by a new interim bonus rate.
2. Any interim bonus rate announced as having effect at a policy anniversary in the period from 1 January 2008 until 31 March 2008 will be determined with regard to both the Transferor's best estimate of the Non-Guaranteed Bonus rate to be announced by the Transferor for the calendar year 2007 and the Transferee's best estimate of the interim bonus rate which the Transferee will announce for Transferring Policies having a policy anniversary in April 2008.
3. The application of the interim bonus rates will be in accordance with the normal practice of the Transferor and the practice to be applied by the Transferee in respect of the Transferring Policies and the Excluded Policies.
4. The Transferee may announce new interim bonus rates for the Transferring Policies and the Excluded Policies at any time.
5. Where in accordance with the terms of a Transferring Policy or an Excluded Policy a sum is payable after the Effective Date and the amount of that sum is fixed prior to the Effective Date, the sum will be paid in that amount.

SCHEDULE 7

DISPUTE RESOLUTION PROCEDURE

Any dispute or difference between the parties in respect of Schedule 5 (*Adjustment and Augmentation*) shall, if not settled through discussion between the parties, be settled by dispute resolution in accordance with the procedure set out in this Schedule 7.

1. Any dispute or difference between the parties concerning any calculation to be made under Schedule 5 shall be referred in writing to the appropriate actuaries within their respective organisations who will endeavour to settle the dispute in good faith.
2. If the dispute has not been agreed or settled within 10 Business Days of it being referred to the appropriate actuaries (and if it was not referred to such actuaries simultaneously, 10 Business Days from the date of the first referral), the dispute shall be referred to an independent actuary jointly appointed by such actuaries (or, failing agreement on such appointment within 20 Business Days of it being referred to the appropriate actuaries (and if it was not referred to such actuaries simultaneously, 20 Business Days from the date of the first referral), by the President of the Faculty of Actuaries) for resolution (such actuary, the "**Expert**").
3. The process for resolution of the dispute shall be determined by the Expert, who shall act as an expert and not as an arbitrator.
4. The parties shall have the right to make representations to the Expert as part of the process for resolution of the dispute determined by the Expert.
5. The decision of the Expert shall, in the absence of manifest error, be final and binding on the parties.
6. All costs incurred by the Expert shall be borne by the parties in equal share unless the Expert determines otherwise.
7. Each party shall, upon any request by the Expert, provide the Expert with such information as is within its possession or control and reasonably required by the Expert, to the extent that such provision is within such party's power (without contravention of any law or rule, regulation or direction of any governmental or regulatory authority or any binding agreement).
8. The parties shall use reasonable endeavours to ensure that the Expert will give his decision within 30 Business Days of the reference to him.
9. Any dispute or difference under Schedule 5 not concerning any calculation to be made under any provision of Schedule 5 shall be resolved as follows:

- (a) The parties shall attempt to resolve any dispute by negotiation between agreed executives relevant to the particular dispute (which may include any actuary where appropriate) who have authority to settle the dispute and are at a higher level of management than the persons with direct responsibility for the implementation of Schedule 5 (*Adjustment and Augmentation*). Should there be no agreement over the appropriate executives(s), the appropriate executive(s) shall be the parties' respective Chief Executives.
- (b) The negotiation phase described in paragraph (a) above shall be initiated by either party giving the other written notice of the dispute. The written notice shall provide a short summary of the nature of the dispute and the name and position of the executive who will represent the party in negotiations. Within 10 Business Days of delivery of the notice, the receiving party shall provide a short summary of the party's response to the notice and the name and position of the executive who will represent that party in negotiations.
- (c) Within 30 Business Days after delivery of the original written notice, the executive of both parties shall meet at a mutually acceptable time and place to attempt to resolve the dispute (assuming such dispute has not been resolved earlier).
- (d) The negotiations shall be treated as without prejudice.
- (e) If the dispute has not been resolved within 30 Business Days of the first meeting (under paragraph (c) above) between the parties' representative executives, or if the parties failed to meet within 60 Business Days after delivery of the disputing party's written notice, the dispute shall be referred for resolution to mediation in accordance with paragraphs (f) and (g) below.
- (f) Where the dispute is referred to mediation pursuant to paragraph (e) above, the mediation shall proceed in accordance with the Centre for Effective Dispute Resolution's Model Mediation Procedure. The mediation procedure shall commence when one party gives written notice to the other requesting the appointment of a mediator and proposing a person or persons who should be appointed as the mediator. The identity of the mediator will be agreed upon by the parties within 10 Business Days of the initial request for appointment of a mediator. Failing such agreement as to the identity of the mediator, either party may apply to the Centre for Effective Dispute Resolution to appoint a mediator.
- (g) The parties shall co-operate as to ensure that the mediation takes place within 30 Business Days of the appointment of the mediator. If the parties fail to reach a settlement within 30 days of the mediation taking place, or if the mediation does not take place within 30 days of the appointment of the mediator, or if a mediator

is not appointed within 30 days of the initial request for appointment of a mediator, either party may commence court proceedings in respect of the dispute.