

**PILKINGTON BROTHERS SUPERANNUATION TRUSTEE  
LIMITED**

- and -

**PILKINGTON GROUP LIMITED**

**THE PILKINGTON SUPERANNUATION SCHEME  
CONSOLIDATED TRUST DEED AND RULES**

**COMPOSITE AS AT 6 NOVEMBER 2017**



Matter ref J1014/00837  
C3/RTH/FCJ/JMS

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**18. DEFINITIONS**

**126**

THIS DEED is made

18 December 2013

**BETWEEN:**

- (1) **Pilkington Brothers Superannuation Trustee Limited** (registered number 467254) whose registered office is at Prescot Road, St Helens, Merseyside WA10 3TT (the "**Trustee**"); and
- (2) **Pilkington Group Limited** (registered number 41495) whose registered office is at European Technical Centre, Hall Lane, Lathom, Nr. Ormskirk, Lancashire L40 5UF (the "**Company**").

**SUPPLEMENTAL TO:**

- (i) the Consolidated Trust Deed and Rules dated 3 January 2006 which was effective 1 December 2005 and which as amended prior to the date of this Deed now governs the Pilkington Superannuation Scheme and is hereinafter called the "**Old Consolidated Deed and Rules**"; and
- (ii) the Deeds to which the Old Consolidated Deed and Rules was expressed to be supplemental and particulars of which are set forth in Schedule 1 hereto (such Deeds, together with the Old Consolidated Deed, being hereinafter called the "**Principal Deed**").

**WHEREAS:**

- (A) By Clause 20 of the Old Consolidated Deed the Trustee may with the consent in writing of the Company alter all or any of the trusts or provisions of the Old Consolidated Deed and Rules subject as provided in that Clause.
- (B) By the interim amending deed dated 5 April 2006 the Trustee in exercise of Clause 20 of the Old Consolidated Deed with the consent of the Company made amendments to the Scheme to comply with the provisions of the Finance Act 2004.
- (C) By the interim amending deed dated 1 December 2006 the Trustee in exercise of Clause 20 of the Old Consolidated Deed with the consent of the Company made amendments to the Scheme to comply with the provisions of the Employment Equality (Age) Regulations 2006 (now the Equality Act 2010 and The Equality Act (Age Exceptions for Pension Scheme) Order 2010).
- (D) The Trustee has agreed with the Company certain alterations to the Old Consolidated Deed and Rules to consolidate the amendments made by previous deeds of amendment, including the interim amending deeds dated 5 April 2006 and 1 December 2006 and to make various other changes to the Scheme. The Trustee and the Company accordingly wish to amend the Old Consolidated Deed and Rules with effect on and from the date of this Deed (the "**Effective Date**") except where a different effective date is expressly stated in Schedule 2 hereto.
- (E) It is noted that clause 2.3 of the interim amending deed dated 5 April 2006 and clause 3.2 of the interim amending deed dated 1 December 2006 provided that definitive alterations would be made to the Old Consolidated Deed and Rules to record the changes made by those deeds and that such alterations would have effect retrospectively to the effective dates of each of those deeds (as appropriate). It is hereby confirmed that the intention is no longer that these changes be definitively documented with retrospective effect. The interim amending deeds will continue to have effect in respect of all Members and Pensioners who left Contributory Staff Service before the Effective Date.



- (F) The Trustee (with the consent of the Company) wishes to resolve as set out in clause 1.2 below and with effect as of and from 5 December 2005 in relation to the rights of surviving Civil Partners for the purposes of the Civil Partnership Act 2004.
- (G) The Trustee is satisfied that the amendments made by this Deed are not regulated modifications for the purposes of section 67 of the Pensions Act 1995.
- (H) The Actuary has confirmed to the Trustee for the purpose of regulation 42(2) Occupational Pension Schemes (Contracting-Out) Regulations 1996 that he is satisfied that if the proposed alterations are made the Scheme will continue to satisfy the statutory standard in accordance with section 12A of the Pension Schemes Act 1993.

## **OPERATIVE PROVISIONS**

### **1. EFFECTIVE DATE AND OPERATION OF THIS DEED**

1.1 Acting in pursuance of the powers conferred upon it by Clause 20 of the Old Consolidated Deed the Trustee with the consent of the Company (as testified by its execution hereof) hereby declares that the provisions of this Deed and of the rules set out in Schedule 2 hereto shall without in any way constituting any new trust on and from the Effective Date take effect in substitution for and to the exclusion of all the provisions of the Old Consolidated Deed and Rules respectively save and except:

- (a) where an earlier or later date is in this Deed or in the rules set out in Schedule 2 hereto specifically stated to apply;
- (b) that in respect of the rights and benefits under the Scheme of all Pensioners, Deferred Pensioners, Paid-up Pensioners and other beneficiaries who on the Effective Date had either ceased to be employed by the Firm or otherwise ceased to be Active Members the powers and provisions of the Principal Deed and of the rules scheduled thereto as the same were from time to time in force prior to the Effective Date shall (wherever appropriate but excluding those relating to the application of assets on a winding-up of the Scheme) remain in full force and effect provided however that this Clause shall not operate to preclude the Trustee and the Company from making any specific amendments within their power under this Deed to the said provisions of the previous rules or otherwise under the Scheme relating to such persons or any of them.

1.2 The Trustee with the consent of the Company hereby resolves pursuant to regulation 7 of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 and with effect as of and from 5 December 2005 to modify the Scheme so that on the death of a Member or Pensioner:

- (a) a surviving Civil Partner is to be treated in the same way as a widow or widower, and
- (b) the rights of any other survivor of the Member or Pensioner are to be determined as if the surviving Civil Partner were a widow or widower.

[Note: With effect as of and from 13 March 2014 and in respect of the death of any Member or Pensioner on or after that date, the Trustee modified the Scheme by resolution so that any provision of the Rules (including but not limited to the definition of

"Spouse") will apply to a Member or Pensioner's same sex spouse as it would do to a Member or Pensioner's Civil Partner.<sup>1]</sup>

## 2. DEFINITIONS

2.1 In this Deed and in the Rules (as hereinafter defined), except so far as the context otherwise requires, words (other than the words "man" and "male") denoting the masculine gender shall be construed as including the feminine, words in the singular shall be construed as including the plural and vice versa, any reference to any enactment shall include any statutory amendment or re-enactment thereof for the time being in force and any regulations from time to time made thereunder and the following expressions shall have the meanings hereby or by the Rules respectively assigned to them, that is to say:

**"1962 Operative Date"** means 1 January 1962 in relation to all persons other than those who, on 31 December 1962, were subscribers to or had rights in the Chance Fund, in relation to whom it means 1 January 1963;

**"Active Member"** means a Member who is contributing to the Scheme under Rule 10 or a Salary Sacrifice Member<sup>2</sup>;

**"Active PEPS Member"** means a PEPS Member who is contributing to the Scheme under Rule 10 or a PEPS Member who is a Salary Sacrifice Member<sup>3</sup>;

**"Actuary"** means a fellow of the Institute and Faculty of Actuaries, for the time being appointed by the Trustee pursuant to Clause 16 hereof to perform the actuarial duties hereby required;

**"Actuary's Valuation Salary Scale"** shall mean such table of increase factors as the Actuary may from time to time recommend for application in paragraphs (f) and (h) of Rule 52 and paragraph (b) of Rule 53, subject always to the proviso that should, in any circumstance, the use of such tables produce increases greater than the rise in the Index over the same period, the increase shall be restricted to the Index rise;

**"Added Years"** means, in relation to any Member or Pensioner to whom it applies, a period expressed in years, including, if appropriate, fractions of a year, to the extent of complete months only, certified by the Actuary to be appropriate, added to such Member or Pensioner's Contributory Staff Service under the provisions of Rule 25;

**"Additional Contributions"** has the meaning assigned to it by paragraph (a) of Rule 11;

**"Allied Company"** means any company, firm or undertaking which shall participate in the Scheme pursuant to Clause 3 hereof and any company, firm or undertaking being a Controlled Successor for the purposes of Clause 26 hereof of an Allied Company which has participated in the Scheme;

**"Appropriate Percentage"** has the meaning assigned to it by Rule 44;

**"Auditor"** means a chartered accountant, or a firm of chartered accountants, for the time being appointed by the Trustee, pursuant to Clause 14 hereof, to perform the auditing duties hereby required;

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<sup>1</sup> See clause 2 of deed of amendment dated 3 June 2014.

<sup>2</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>3</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

**"Authorised Investments"** means the classes of investment and application specified in Clause 12 hereof;

**"Average Retiring Salary"**:

- (a) has the meaning assigned to it by Rule 19 in relation to a Member, other than a Deferred Pensioner, who retires;
- (b) no paragraph;
- (c) no paragraph;
- (d) has the meaning assigned to it by paragraph (b) of Rule 53 (Deferred Pensions) in relation to any Deferred Pensioner;

**"Basic PSS Rules"** means the Rules other than the PEPS Supplement and those other provisions of the Rules which apply only to PEPS Transferees or PEPS Members or any of them;

**"Cash Equivalent"** means an amount calculated in respect of a Member who has ceased to be an Active Member in accordance with section 97 of the Pension Schemes Act 1993 and The Occupational Pension Schemes (Transfer Value) Regulations 1996 (including any reduction in the cash equivalent permitted by those Regulations);

**"Chance Fund"** means the Chance Brothers Limited Superannuation Fund;

**"Civil Partner"** has the same meaning as in the Civil Partnership Act 2004;

**"Company"** means Pilkington Group Limited, its successors or assigns or any other body corporate for the time being substituted therefor as the person liable to perform the obligations thereof under the Scheme;

**"Company Salary Sacrifice Facility"** means any salary sacrifice facility provided by the Company and, with the consent of the Trustee, designated by the Company as a **"Company Salary Sacrifice Facility"**;

**"Contracted-out Rights"** means Guaranteed Minimum Pensions, Section 9(2B) Rights and any guaranteed minimum benefit as provided for by the Pensions Legislation;

**"Contributions Office"** means the National Insurance Contributions Office of HMRC;

**"Contributory Staff Service"** has the meaning assigned to it by Rule 18;

**"Credit Years"** in relation to any Member to whom it applies means a notional period of service expressed in years including, if appropriate, fractions of a year to the extent of complete months only certified by the Company as credited by it to such Member and calculated by reference to a period of actual service of such Member with the Pilkington Group in certain countries overseas;

**"Debt Regulations"** means the Occupational Pension Schemes (Employer Debt) Regulations 2005.

**"Deferred Pension"** means the pension payable in accordance with Rule 22(b) of the Old Consolidated Trust Deed and Rules or Rule 53;

**"Deferred Pensioner"** means either:

- (a) a Former Member who, having ceased to be a Member under paragraph (a) of Rule 52, becomes a Deferred Pensioner either by election under the provisions of paragraph (j) of that Rule or under paragraph (l) of that Rule; or
- (b) a Member who, upon retirement before the Normal Retiring Age, qualified for an immediate but reduced pension under paragraph (a) of Rule 22 of the Old Consolidated Trust Deed and Rules but instead of taking it elected under paragraph (b) of that Rule to take a Deferred Pension;

**"Dependant"** shall mean the Spouse of the Member or Pensioner or any other person who satisfies the definition of dependant in paragraph 15 of Schedule 28 of the Finance Act 2004;

**"Dependent Child"** shall mean any person who satisfies the definition of dependant in paragraph 15 of Schedule 28 of the Finance Act 2004 and who is a child, step child or legally adopted child of a deceased Member or Pensioner until such child:

- (a) marries; or
- (b) reaches the age of 18 years; or
- (c) commences full time employment,

provided that the Trustee may in its sole discretion continue to regard such a child receiving full time education or vocational training as a Dependent Child between the ages of 18 and 23;

**"Family Leave"** means a period of maternity leave, paternity leave, adoption leave or parental leave taken in accordance with the Employment Rights Act 1996;

**"Firm"** means all of the Company and the Allied Companies or any of them, as the context may require, and in relation to any Member or Pensioner means that one of them by which he is for the time being, or was at any particular time, employed;

**"Former Member"** means a Member to whom Rule 52 applies;

**"Fund"** means the Fund of the Scheme constituted under irrevocable trusts by the Principal Deed, comprising all investments, property and cash, from time to time held by or on account of the Trustee pursuant to this Deed and the Rules together with all interest, dividends and other income thereof and together with all contributions, payments and transfers from time to time paid to the Trustee or donations accepted by it pursuant to this Deed and the Rules;

**"GMP Pensionable Age"** means a man's 65th birthday and a woman's 60th birthday;

**"Higher Accrual Member"** means a Member who elected before 1 January 2009 to accrue benefits in accordance with Rule 20(a)(iii);

**"HMRC"** means Her Majesty's Revenue and Customs;

**"Ill-health"** has the meaning given to it in paragraph (a) of Rule 23;

**"Index"** shall mean the General Index of Retail Prices published by the Office for National Statistics of Her Majesty's Government or any other official cost-of-living index published by authority in place of or in substitution for that index and which is approved for the purposes of the Scheme by the Trustee;

**"Insurance Company"** shall mean an insurance company, an EEA company or a friendly society as referred to in section 275 of the Finance Act 2004;

**"Lower Accrual Member"** means a Member who accrues benefits in accordance with Rule 20(a)(iv);

**"Member"** means every Active Member, Postponed Pensioner, Paid-up Pensioner, Former Member and Deferred Pensioner;

**"Minimum Retirement Age"** means age 55. Where the Member has a protected pension age for the purposes of Part 3 of Schedule 36 to the Finance Act 2004 the Member's Minimum Retirement Age shall be their protected pension age (or age 50, if later);

**"Named Dependant"** shall have, for the purposes of Rule 41, the meaning assigned to it by paragraph (g) of that Rule and shall have, for the purposes of Rule 43, the meaning assigned to it by paragraph (m) of that Rule;

**"Named Members"** means Mr M J Lyons, Mr D Vernon-Smith, Mr J P Ruddlesdin and Mr P Zito and "Named Member" means any of them;

**"National Insurance Fund"** has the meaning given to it for the purposes of the Pensions Legislation;

**"Non-Contributory Staff Service"** means in relation to any Member (not being a PPS Transferee) who joined the Scheme before the PPS Effective Date, the period or the aggregate of the periods expressed in years including, if appropriate, fractions of a year to the extent of complete months only during which such Member has been employed on the staff of a company which is within the Pilkington Group and during which such Member has not contributed to the Fund or in respect of service prior to the 1962 Operative Date to the Pilkington Fund or the Chance Fund and immediately preceding a period of Contributory Staff Service;

**"Normal Retiring Age"** means the age of 65 except for PEPS Transferees and PEPS Members for whom it is the age of 63;

**"Normal Salary"** has the meaning assigned to it by paragraph (c) of Rule 10;

**"Notional Pension"** shall have the meaning assigned to it by paragraph (i) of Rule 43;

**"Notional PEPS Pension"** has the meaning given to it in paragraph (c) of Rule 87;

**"Ordinary Contributions"** has the meaning assigned to it by paragraph (a) of Rule 10;

**"Paid-up Pension"** means the pension payable in accordance with Rule 51 or Rule 88(c) (as appropriate);

**"Paid-up Pensioner"** means a Member, who upon ceasing to be an Active Member, becomes entitled to a Paid-up Pension under Rule 51;

**"Pensionable Salary"** has the meaning assigned to it by paragraph (d) of Rule 10;

**"Pensioner"** means a person who, upon ceasing to be a Member, has qualified for and has commenced to receive a pension under the Rules, other than a Deferred Pension or Paid-up Pension;

**"Pensions Legislation"** means the Pension Schemes Act 1993, the Pensions Act 1995, the Pensions Act 2004 and other related legislation as from time to time in force together with all regulations made under such Acts;

**"PEPS"** means the Pilkington Executive Pension Scheme governed by a Trust Deed dated 5 March 1981 and rules adopted by that Deed, in each case as subsequently amended prior to the PEPS Merger Date;

**"PEPS Benefits"** means benefits under the Scheme on the enhanced scale or of the additional amounts which either were previously provided under PEPS before the liability was assumed by the Scheme on the PEPS Merger Date or are provided under the Scheme for PEPS Members;

**"PEPS Increment"** has the meaning assigned to it by paragraph (a) of Rule 83;

**"PEPS Increment for Lower Accrual Members"** has the meaning assigned to it by paragraph (a) of Rule 83A;

**"PEPS Member"** means a Member who has also been admitted to membership for PEPS Benefits;

**"PEPS Merger Date"** means 30 June 2000;

**"PEPS Retiring Salary"** has the meaning assigned to it by Rule 82;

**"PEPS Supplement"** means the Rules set out in Section XI and forming part of the Rules; the PEPS Supplement specifies certain modifications to the Rules in respect of PEPS Members;

**"PEPS Transferee"** means a Member, Deferred Pensioner, Paid-up Pensioner or Pensioner (each as defined under PEPS), in each case in respect of whom the Scheme on the PEPS Merger Date assumed liability for pre-PEPS Merger Date benefits in accordance with a merger agreement made between the Company, the Trustee and the trustee of PEPS;

**"Personal Pension Scheme"** has the meaning given to the term "personal pension scheme" by section 1 of the Pension Schemes Act 1993;

**"Pilkington Fund"** means the Pilkington Brothers Limited Superannuation Fund;

**"Pilkington Group"** means all of the Company and the Allied Companies and any other company, firm or undertaking closely associated with or carrying on business which is substantially the same as, or allied to, the business of the Firm, service with which is regarded by the Company for the purposes of the Scheme as being included within this definition;

**"Postponed Pension"** means the pension payable in accordance with Rule 36(b) or Rule 84(c)(iii) (as appropriate).

**"Postponed Pensioner"** means a Member, who on ceasing to be an Active Member under Rule 36(b) or Rule 84(c) (as appropriate), remains in employment with the Firm and is entitled to a Postponed Pension.

**"PPS"** means the Pilkington Pension Scheme governed by a Trust Deed dated 28 March 1980 and rules adopted by that Deed, in each case as subsequently amended;

**"PPS Effective Date"** means 1 July 1998;

**"PPS Merger Agreement"** means the Agreement dated 30 June 1998 and made between Pilkington plc (1) Pilkington Brothers Superannuation Trustee Limited (2) and Pilkington Brothers Workmen's Pension Fund Trustee Limited and Pilkington Brothers Pension Investments Limited (3) setting out the terms upon which PPS was to be merged into the Scheme on the PPS Effective Date;

**"PPS Transferee"** means a Member, Paid-up Employee Member, Paid-up Member, Pensioner (each as defined under PPS) or other beneficiary under PPS, in each case in respect of whom the Scheme on the PPS Effective Date assumed liability for pre-PPS Effective Date benefits in accordance with the PPS Merger Agreement;

**"Professional Trustee"** means any limited company or trust corporation that holds itself out as being an independent professional trustee and is a director of the Trustee or any director or representative of such a limited company or trust corporation who is a director of the Trustee;

**"Prospective Pension"** has the meaning assigned to it by paragraph (d) of Rule 41;

**"Prospective PEPS Pension"** has the meaning given to it in paragraph (b) of each of Rules 86 and 88 (as appropriate);

**"Prospective Service"** has the meaning assigned to it by Rule 81;

**"Qualifying Recognised Overseas Pension Scheme"** means a pension scheme which is treated as a qualifying recognised overseas pension scheme for the purposes of section 169 of the Finance Act 2004;

**"Qualifying Service"** means in relation to a Member or Pensioner the aggregate of the following periods, namely:

- (a) his Contributory Staff Service ignoring any adjustment thereof for part time employment under paragraph (d) of Rule 18; and
- (b) service during which he contributed to, or was a member of any other pension scheme in respect of which a transfer payment has been made from such pension scheme to the Scheme;

**"Registered Pension Scheme"** means a pension scheme (as defined in section 150 of the Finance Act 2004) which is treated as a registered pension scheme for the purposes of that Act;

**"Revaluation Percentage"** means the relevant revaluation percentage or percentages specified in an Order made by the Secretary of State under Schedule 3 of the Pension Schemes Act 1993;

**"Rules"** means the rules set forth in Schedule 2 hereto as from time to time altered in accordance with the provisions hereinafter contained;

**"Salary"** has the meaning assigned to it by paragraph (b) of Rule 10;

**"Salary Sacrifice Member"** means an Active Member who participates in a Company Salary Sacrifice Facility under which he sacrifices an amount of his remuneration and in

return is relieved of the obligation to pay contributions to the Scheme equal to the amount sacrificed, for so long as that participation continues<sup>4</sup>;

"**Scheme**" means the scheme for the payment of pensions, annuities and other benefits established by the Principal Deed and regulated by this Deed and the Rules;

"**Secretary**" means the Secretary appointed pursuant to paragraph (i) of Clause 14 hereof;

"**section 148 order**" means an order made by the Secretary of State under section 148 of the Social Security Administration Act 1992;

"**Spouse**" means the surviving lawful spouse or Civil Partner of a deceased Member or Pensioner;

"**Spouse's Pension**" means as the context may require, the pension payable under the provisions of any of Clause 9(e), Rules 41, 43, or paragraph (g) of Rule 51, or paragraph (g) of Rule 52;

"**State Pension Age**" means age 65 (males) and age 60 (females) or such other age as is the Member or Pensioner's pensionable age for the purposes of Schedule 4 to the Pensions Act 1995;

"**Total Incapacity**" has the meaning given to it in paragraph (a) of Rule 37;

"**Triplex Fund**" means the Triplex Holdings Limited Pension Fund;

"**Unauthorised Member Payment**" means any payment to, or in respect of, a Member or Pensioner, apart from an authorised payment under section 164 of the Finance Act 2004;

"**United Kingdom**" means the United Kingdom of Great Britain and Northern Ireland;

"**Voluntary Scheme**" means the Pilkington Voluntary Pension Scheme.

2.2 In this Deed and in the Rules the words and expressions following, that is to say, "Contributions Equivalent Premiums", "Guaranteed Minimum Pensions", "Guaranteed Minimums", "Contracted out Scheme", "contracted out employment" and "Section 9(2B) Rights" shall each respectively have the meanings assigned to them by the Pensions Legislation and "trust corporation" shall have the meaning assigned to it by section 68(18) of the Trustee Act 1925.<sup>5</sup>

2.3 "Lower Earnings Limit" shall be the amount specified by the Pensions Legislation but if no such amount is specified shall be the amount from time to time set by the Trustee as agreed by the Company.<sup>6</sup>

### 3. **ALLIED COMPANIES**

The Allied Companies participating in the Scheme at the date of this Deed together with any other company, firm, or undertaking, the staff (or part of the staff) of which the Company, with the consent of the Trustee, decides to admit to membership of the

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<sup>4</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>5</sup> Amendment made by deed of amendment dated 4 April 2016 reflecting changes required as a result of the cessation of contracting-out on a salary-related basis with effect on and from 11.59pm on 5 April 2016.

<sup>6</sup> Amendment made by deed of amendment dated 4 April 2016 reflecting changes required as a result of the cessation of contracting-out on a salary-related basis with effect on and from 11.59pm on 5 April 2016.



Scheme. Provided that such company, firm, or undertaking shall execute a deed of covenant with the Trustee in the same terms as the covenant on the part of the Company contained in paragraphs (a) and (c) of Clause 5 hereof.

The Trustee shall have power by written notice to any Allied Company to require that Allied Company to cease to participate in the Scheme and that Allied Company shall do everything necessary to comply with the requirements of that notice.

**4. PURPOSE OF SCHEME**

The main purpose of the Scheme is the provision of pensions and annuities for Members upon their retirement at specified ages from the service of the Firm and for their Spouses and dependants.

**5. COMPANY'S COVENANT**

The Company covenants with the Trustee:

- (a) (i) to deduct from the Salary of each Active Member in its employment those contributions which such Active Member is required by the Rules, or elects in accordance therewith, to pay; and
- (ii) to remit to the Trustee the total of such contributions so deducted by it, together with the contributions and payments which the Company is, under Rule 12, required to make;
- (b) to pay to the Trustee upon demand the amount of all costs, charges, and expenses incurred by it in or about the execution of the trusts of these presents and the management and administration of the Scheme, but excluding stamp duties, brokerage, and legal and other professional charges in connection with the making and realisation of the Authorised Investments of the Fund; and
- (c) to comply with the provisions of this Deed and the Rules.

**6. TRUSTEE'S COVENANT**

The Trustee covenants with the Company:

- (a) to manage and administer the Scheme, to execute the trusts hereof, and to exercise or perform all powers, duties and discretions hereby conferred or imposed upon it in accordance with its memorandum and articles of association for the time being in force;
- (b) to pay out of the Fund the pensions, annuities and other benefits prescribed by the Rules;
- (c) to keep all necessary and proper accounts to show the position of and all dealings with the Fund and the income respectively thereof, and all outgoings paid by the Trustee, and the amounts contributed to the Fund by each Active Member and by the Firm and to submit such accounts to an annual audit by the Auditor; and
- (d) to comply with the provisions of this Deed and the Rules.

**7. ASSETS TRANSFERRED IN**

- (a) Subject to sub-clause (b) of this Clause the Trustee shall have power, at the request of the Company, to accept from any other pension fund or scheme a transfer of all or part of the assets thereof and to pay the whole of such transferred assets into the Fund. Subject to the provisions of Schedule 4 (Overriding Scheme Limits and Tax Treatment) and Clause 18 (*Actuarial deficiency*), the Trustee shall maintain the future payment and satisfaction out of the Scheme of the pensions and other benefits which, at the date of transfer of all or part of the assets of such other pension fund or scheme, are payable or contingently payable out of all or such part of the assets thereof, to all persons in receipt of pension therefrom or having rights therein. Provided that the Trustee shall, at the request of the Company, be at liberty to recalculate such pensions or other benefits in accordance with the methods of calculation currently prescribed by the Rules, on condition that such recalculation shall maintain or improve such pensions and other benefits, and that the Actuary certifies such recalculation to be appropriate. And provided that if the Actuary certifies that there is, at the date of such transfer, a surplus of assets transferred, the Trustee shall have power to make such arrangements, either for the disposal of such surplus or (provided that the sum of such surplus and any surplus being carried forward as a reserve by the Trustee under the provisions of paragraph (c) of Clause 17 (*Actuarial surplus*) does not exceed the limits stipulated in the proviso to that paragraph) for the same to be set aside as a reserve to meet future liabilities, as the Trustee shall, in its absolute discretion, consider most appropriate to the circumstances of such transfer. For which purposes only the Trustee shall have power to vary the trusts of the Scheme, and such variations required to be made to the Trust Deed and Rules shall be made by deed executed by the Trustee and the Company.

Provided always that the powers and discretions conferred upon the Trustee by this Clause shall only be exercisable upon the condition that there is paid into the Scheme such amount (if any), in addition to the assets so transferred, as the Actuary shall certify to be appropriate having regard to the obligations undertaken by the Trustee under sub-clause (a) of this Clause.

- (b) Where, pursuant to sub-clause (a) of this Clause, the Trustee, at the request of the Company accepts into the Fund a transfer of assets from another pension fund, the Trustee may indemnify (in a form binding on the Fund and where such indemnity may lawfully be given) the trustees of the transferring scheme against such payments, charges, losses, claims, costs and expenses and liabilities as the Trustee may in any such case deem appropriate.

**8. DONATIONS**

- (a) The Trustee shall have power to accept and pay into the Fund any donation which may be made by way of addition thereto for the purpose of better securing the solvency thereof or of maintaining or improving the provision of pensions, annuities, or other benefits by this Deed and the Rules.
- (b) The Trustee shall have power, with the consent of the Company, to accept from the Firm and pay into the Fund any sum or sums of money which the Actuary shall certify to be appropriate for the purpose of securing additional or past service benefits for any Member or class or classes of Member or persons having rights in the Scheme.

**8A. BENEFIT INCREASES AND DISCRETIONARY PENSIONS**

The Trustee may, with the consent of the Company and subject to payment of any additional contributions the Trustee requires (after taking actuarial advice):

- (a) increase any of the benefits under the Scheme; or
- (b) may provide new or additional benefits to, or in respect of, any person who is a current or former employee of the Firm and provide any of the benefits under the Scheme to, or in respect of, such person otherwise than in accordance with the Rules provided that the Actuary is satisfied that the actuarial value of the benefits provided to, or in respect of, such person is maintained.

The preservation and revaluation requirements of the Pension Schemes Act 1993 must be complied with in respect of the grant of a new or additional benefit.

**9. BENEFITS FOR PPS TRANSFEREES**

- (a) Those Paid-up Employee Members, Paid-up Members and Pensioners as defined under PPS (together with persons deriving benefits through them) who at the PPS Effective Date were entitled to benefits under the provisions of PPS shall be entitled to the identical benefits under the Scheme except that for benefits other than those which originated under the Voluntary Scheme or the Triplex Fund the provisions of Clauses 17 and 19 shall apply in respect of increases in lieu of the former PPS provisions. Increases in respect of pensions which originated under the Voluntary Scheme and the Triplex Fund will be granted on the terms set out in the Voluntary Scheme and the Triplex Fund respectively.
- (b) All other beneficiaries under PPS (together with persons deriving benefits through them) at the PPS Effective Date (not being Members to whom (c) below applies) shall be entitled to identical benefits under the Scheme except as provided in (a) above in respect of increases for benefits other than those which originated under the Voluntary Scheme or the Triplex Fund. Increases in respect of pensions which originated under the Voluntary Scheme and the Triplex Fund will be granted on the terms set out in the Voluntary Scheme and the Triplex Fund respectively.
- (c) The benefits under the Scheme for and in respect of Members who are PPS Transferees and who were Members as defined under PPS immediately before the PPS Effective Date shall be calculated in two parts as follows; such Members (and persons deriving benefits through them) shall not be entitled to any credits or other benefits under the Rules in respect of service before the PPS Effective Date:
  - (i) Benefits for service before the PPS Effective Date shall be calculated as at 30 June 1998 in accordance with the PPS rules except as provided in (a) above in respect of increases for benefits other than those which originated under the Voluntary Scheme or the Triplex Fund. Increases in respect of pensions which originated under the Voluntary Scheme and the Triplex Fund will be granted on the terms set out in the Voluntary Scheme and the Triplex Fund respectively. Between the PPS Effective Date and the earlier of the date on which the Member reaches Normal Retiring Age or ceases to be an Active Member these benefits shall be increased as follows, depending on the nature of the benefit:
    - (1) The Voluntary Scheme and the Triplex Fund:

Benefits earned by extra contributions paid before 6 April 1980 shall be increased by such percentage amounts as the Actuary advises to be appropriate.

(2) PPS pension:

Benefits in respect of the Member's 5 per cent contributions and any additional voluntary contributions to PPS shall be increased in line with "section 148 orders" under section 148 of the Social Security Administration Act 1992 (or such other Government orders as may be published from time to time to take account of changes in national average earnings).

(3) PPS lump sum:

By the ratio of the Member's P60 earnings in the last complete tax year during which he is a Member or (if earlier) which ends immediately before the Member reaches Normal Retiring Age, to the Member's P60 earnings for the tax year 1997/98 or, if greater, the increase in the index of retail prices over the period from 6 April 1998 to the end of the last complete tax year during which he is an Active Member or (if earlier) which ends immediately before the Member reaches Normal Retiring Age.

If the Member does not draw an immediate pension on ceasing to be an Active Member, his PPS pension (excluding his Guaranteed Minimum Pension (if any)) and PPS lump sum shall be increased by the Revaluation Percentage.

If the Member, in accordance with the Rules, defers drawing his pension beyond his Normal Retiring Age the Trustee shall make such further increases as the Trustee considers to be appropriate.

- (ii) Benefits in respect of membership of the Scheme on and after the PPS Effective Date shall be calculated in accordance with the Rules.

(d) Each PPS Transferee who:

- (i) was an active Member of PPS immediately before the PPS Effective Date and
- (ii) became an Active Member of the Scheme on the PPS Effective Date and
- (iii) was on the PPS Effective Date aged 45 or over and who then had 10 or more years' contributory service under PPS (as therein defined),

shall have the following benefit calculation made in respect of him at the date of his retirement (including early retirement) and the benefit so found shall, where it is of greater value than the benefit which would be payable from the Scheme apart from this Rule or which is otherwise provided by the Firm, be paid in place of that benefit.

The calculation referred to above is as follows:

- (iv) at the date of the Member's retirement (including early retirement) from the Scheme that part of his pension accrued under the Scheme since the PPS Effective Date will be calculated (the "**PSS Pension**");
  - (v) the pension and lump sum that would have been payable in the same circumstances and for the same period had the Member continued to accrue benefits for pensionable service after the PPS Effective Date on the basis which applied to him immediately prior to the PPS Effective Date (respectively the "**PPS Pension**" and the "**PPS Lump Sum**") will be determined;
  - (vi) a sum equal to the PPS Lump Sum will be assumed to be commuted from the PSS Pension; and
  - (vii) the PSS pension (after commutation of the PPS Lump Sum using the rates for commutation from time to time applied in the PSS) will be compared with the PPS Pension.
- (e) In the event of a Paid-up Pensioner, who is a PPS Transferee, dying before his Paid-Up Pension commences to be paid leaving a Spouse surviving him, such Spouse shall be entitled to a Spouse's Pension from the Scheme of an amount equal to half the Paid-up Pensioner's Paid-up Pension which would have been payable under Clause 9(a) or (c)(i) had the Paid-Up Pensioner retired on pension on the date of his death ignoring any reduction that may have been made for early retirement.

**9A. NO CLAUSE**

**9B. BENEFITS FOR PEPS TRANSFEREES**

- (a) Those Paid-up Pensioners, Deferred Pensioners and Pensioners as defined under PEPS (together with persons deriving benefits through them) who at the PEPS Merger Date were entitled to benefits under the provisions of PEPS shall be entitled to the identical benefits under the Scheme except that the provisions of Clauses 17 and 19 of this Deed shall apply in respect of increases in lieu of the former PEPS provisions.
- (b) All other beneficiaries under PEPS (together with persons deriving benefits through them) at the PEPS Merger Date (not being Members to whom (c) below applies) shall be entitled to identical benefits under the Scheme except as provided in (a) above in respect of increases to benefits.
- (c) The benefits under the Scheme for and in respect of PEPS Transferees who were Members as defined under PEPS immediately before the PEPS Merger Date and who became Active PEPS Members on the PEPS Merger Date shall be calculated in accordance with the Rules.

**10. VESTING OF PROPERTY**

All the property of the Fund shall be vested in the Trustee.

**11. BANK ACCOUNTS**

The Trustee may retain so much of the Fund on current or (at its discretion) deposit accounts at any bank or banks approved by it as it, at its absolute discretion, consider

necessary or desirable for the purpose of making payment of (i) the pensions, annuities and other benefits hereunder and by the Rules currently required to be paid, and (ii) the stamp duties, brokerage, and legal and other professional charges in connection with the making and realisation of the Authorised Investments.

## 12. GENERAL AND INVESTMENT POWERS AND DISCRETIONS OF TRUSTEE

- (a) The Trustee shall have all powers and discretions necessary to administer and implement the Scheme including powers to:
- (i) employ and pay personnel and agents (with in each case the consent in writing of the Company as to both the appointee and the rate of remuneration);
  - (ii) delegate or sub-delegate to or provide for the exercise of any of its powers, duties and discretions as it considers appropriate by such persons or body, including any one or more of the companies comprising the Firm, as the Trustee may from time to time and at any time determine provided that, where section 34 of the Pensions Act 1995 applies, any delegation in relation to investment complies with that section;
  - (iii) appoint and remove advisers including lawyers, actuaries other than the Actuary appointed under Clause 16 and investment managers and advisers on such terms and subject to such conditions as the Trustee shall agree with such advisers. The terms and conditions on which an adviser is appointed shall comply with section 47 of the Pensions Act 1995 and the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and (where such act and regulations permit) both the appointment itself and such terms and conditions shall be subject to the consent in writing of the Company;
  - (iv) appoint one or more nominees to hold the Fund (or such part as the Trustee from time to time decides) on the Trustee's behalf;
  - (v) operate bank and/or deposit accounts; and
  - (vi) delegate in writing the payment of benefits (and payment by the delegate shall discharge the Trustee).
- (b) the Trustee may delegate any of its powers and discretions to any person or body provided that any delegation in relation to investment is in accordance with section 34 of the Pensions Act 1995 where that section applies. The Trustee shall not be liable for any loss arising out of any act or omission of any such person or body to whom such powers and discretions are properly delegated.
- (c) The Trustee shall ensure that there is prepared, maintained and revised a statement of investment principles in accordance with section 35 of the Pensions Act 1995 and shall comply with the other relevant requirements of that section.
- (d) The Trustee may as it thinks fit but subject to section 40 of the Pensions Act 1995 (which restricts employer-related investment) invest, lend or apply all or any part of the Fund as though it was absolutely and beneficially entitled thereto, such investments, loans and applications in accordance with this sub-clause (d) being the "**Authorised Investments**". This power shall include:

- (i) acquiring and disposing of currencies and any property, tangible or intangible, real or personal, movable or immovable, whether or not it produces income, alone or together with others, in any part of the world, whether or not encumbered;
- (ii) entering into, purchasing, selling, exchanging, and closing out or otherwise cancelling derivative instruments (which expression shall include, without limitation, currency hedging arrangements, interest rate and equity swap arrangements, options and futures contracts, contracts for differences and any transaction calculated by the Trustee to offset or reduce a risk or loss to the Fund) and applying the Scheme's assets in connection therewith;
- (iii) underwriting, sub-underwriting or guaranteeing the subscription of any funds, securities, bonds, debentures, debenture stocks and stocks and shares of any kind;
- (iv) lending (with or without security) money or any of the other assets of the Scheme (whether or not the Trustee's entire interest in such assets is transferred as part of any loan arrangement) for any purpose;
- (v) subject to the approval of HMRC, where required, commingling all or any part of the Fund with the assets of any other Registered Pension Scheme and entering into and applying the Scheme's assets in connection with collective investment schemes;
- (vi) giving such guarantees and indemnities as the Trustee shall in its absolute discretion think fit in connection with the exercise of its powers under the Scheme and binding the Fund to give effect thereto;
- (vii) contracting with an Insurance Company for any policy securing benefits under the Scheme or covering an excess of claims and paying the premiums from the Fund;
- (viii) insuring assets of the Scheme against loss or damage for such amounts as the Trustee decides and paying the premiums from the Fund;
- (ix) entering into any repurchase transaction, reverse repurchase transaction, buy/sell back transaction or securities lending transaction and applying the Scheme's assets in connection with any such transaction (including posting collateral);
- (x) investing or applying all or part of the Fund in units in unit trusts, mutual or managed funds or pooled investment funds; and
- (xi) entering into a longevity insurance contract with such provider as the Trustee may determine and applying the Scheme's assets in connection therewith (including granting security and posting collateral).

Provided that:

- (A) the aggregate cost of Authorised Investments in assets of the Company and of any subsidiary company (as defined in section 1159 Companies Act 2006) of the Company and of any Allied Company at any one time shall not altogether exceed the limits provided by section 40 Pensions Act 1995; and

- (B) no moneys awaiting investment, or any part thereof, shall be deposited with or placed on loan with the Firm.

**13. BORROWING POWERS**

- (a) If in any one year the moneys paid to the Trustee on account of the Fund, and the income thereof, shall not be sufficient (after payment of costs, charges and expenses) to pay in full all current pensions, annuities, and other benefits payable out of the Fund, the Trustee may raise such amount as shall be required to make good the deficiency out of the capital of the Fund, or may, if in any case the Trustee deems it desirable or expedient so to do, borrow such amount, or any part thereof, upon such terms as to security, repayment or otherwise as may be agreed by the Trustee and the Company, and the Trustee shall have power to charge the income or capital of the Fund for that purpose.
- (b) For the purpose of enabling the Trustee to secure suitable investments in the United Kingdom or abroad at the time such investments are available, the Trustee shall have power from time to time to borrow money required for such investment in excess of that currently available for such purpose, to the extent that the Trustee considers it desirable and expedient to do so having regard to the financial condition of the Scheme, but not exceeding seven and a half per cent of the market value at the time of such borrowing of the Authorised Investments of the Fund, and upon such terms as to security, repayment or otherwise as may be agreed by the Trustee and the Company, and the Trustee shall have power to charge the income or capital of the Fund for that purpose. Provided that, if the Trustee exercises the power conferred in this paragraph, the Trustee shall, at least once in every year, re-examine the expediency of such borrowing and make such adjustments as it shall think fit, within the limits of the powers conferred upon it by this paragraph of this Clause.

**14. APPOINTMENT AND REMOVAL OF TRUSTEES; EXONERATION, INDEMNITY AND PERSONAL INTERESTS OF TRUSTEES; APPOINTMENT OF SECRETARY AND AUDITOR**

- (a) Pilkington Brothers Superannuation Trustee Limited shall have power by deed to appoint and remove a trustee of the trusts hereof.
- (b) The Trustee (which expression throughout this Clause includes any director or officer (1) of any of the trustees or (2) of any corporate director of any of the trustees) shall be liable only for such moneys as it shall actually receive and shall in no event be liable for any interest in respect of such moneys. It shall not be obligatory upon the Trustee to see that any contributions or other moneys payable under the Scheme to it or as it shall direct are in fact paid or paid when due. Subject to section 33 of the Pensions Act 1995, the Trustee shall not be responsible, chargeable or liable in any manner whatsoever for or in respect of any loss of, or any depreciation or default upon, any of the investments or applications of the Fund or any part or parts thereof or for any delay which may occur from any cause whatever in the investment or application of any part or parts of the Fund or for the safety of any securities or documents of title deposited by the Trustee for safe custody or for the exercise of any discretionary power vested in the Trustee by this Deed or by the Rules or by reason of any other matter or thing except (i) personal conscious wrongdoing or fraud on the part of the Trustee of the Scheme or that of one or more of its directors or officers, who or which is sought to be made liable or (ii) the negligence of a Professional Trustee. Without prejudice to the foregoing, in relation to Additional Contributions, the



Trustee's duty shall only be to see that the contributions in fact paid to it are invested on behalf of the Members concerned. The Firm shall be liable, in every case of short payment, to pay the Trustee such additional sum as the Trustee considers is required to put the Member in no worse a position than if the error had not occurred.

The above provisions take effect subject to the requirements of sections 33 and 34 of the Pensions Act 1995 and any other overriding legislation or rule of law.

- (c) The Trustee shall not be under any liability to take, institute, maintain or defend any legal proceedings against the Firm or otherwise in relation to the Scheme except where it may consider that it has a duty to do so under section 75 of the Pensions Act 1995.
- (d) The Trustee shall be entitled to an indemnity from the Fund against all costs, claims, losses and expenses for which such person is liable arising out of or in connection with the Scheme to the extent that they are not attributable to breach of trust committed through personal conscious wrongdoing or fraud on the part of such person. In the case of a Professional Trustee, the indemnity above shall be subject to the further condition that neither that Professional Trustee, nor any of its directors, officers or employees shall have the benefit of this indemnity if the costs, claims, losses or expenses are attributable to negligence on the part of such Professional Trustee or any such person.
- (e) The Trustee shall be indemnified by the Firm jointly and severally against all costs, claims, losses and expenses for which such person is liable arising out of or in connection with the Scheme to the extent that they cannot be recovered from the Fund and they are not attributable to breach of trust committed through personal conscious wrongdoing or fraud on the part of such person. In the case of a Professional Trustee, the indemnity above shall be subject to the further condition that neither that Professional Trustee, nor any of its directors, officers or employees shall have the benefit of this indemnity if the costs, claims, losses or expenses are attributable to negligence on the part of such Professional Trustee or any such person.
- (f) The protection given by this Clause 14 is limited to the extent required so as to comply with section 33 of the Pensions Act 1995. The indemnities provided by this Clause 14 shall not apply to the extent that would cause them to be void by virtue of section 232(2) of the Companies Act 2006.
- (g) If, in the reasonable opinion of the Trustee, the Trustee is not adequately covered under an insurance policy effected by the Company, the Trustee may insure:
  - (i) the Scheme against any loss caused by the Trustee, any director, officer or employee of the Trustee or a corporate director of the Trustee and any Secretary, agent or delegate lawfully appointed by the Trustee; and
  - (ii) the Trustee and such other person against liability for breach of trust not being a breach of trust committed through personal conscious wrongdoing or fraud on the part of such person and not attributable to negligence on the part of a Professional Trustee.

The premiums may be paid from the Fund, except where prohibited by law.

- (h) Any of the trustees, or director or officer of any of the trustees, who is a Member or Pensioner shall be entitled to retain any benefit arising from his membership of the Scheme and neither a decision of nor the exercise of any duty, power or discretion by any such person shall be invalidated or questioned on the grounds that he had a direct or indirect interest in the manner or result of such decision or of exercising such duty, power or discretion.
- (i) The Trustee shall have power (with the consent in writing of the Company) to appoint and remove a Secretary and an Auditor of the Scheme and with like consent to fix their rates of remuneration.

**14A. CONFIDENTIAL INFORMATION**

- (a) If a director or officer of the Trustee has obtained any information otherwise than as a director or officer of the Trustee of the Scheme and in respect of which he or she owes a duty of confidentiality to another entity or person ("Confidential Information"), the director or officer of the Trustee is, subject to Clause 14A(b) below, under no obligation to:
  - (i) disclose any such information to the other directors, officers or employees of the Trustee; or
  - (ii) use or apply any such information in performing his or her duties as a director or officer of the Trustee.
- (b) If the Confidential Information gives rise or might give rise to an actual or potential conflict of interest or duty for the director or officer of the Trustee in performing his or her role as a director or officer of the Trustee, then:
  - (i) if the Trustee has adopted a conflicts of interest policy and such policy has not lapsed or been revoked, Clause 14A(a) applies subject to that policy and only to the extent that the relevant director or officer of the Trustee acts in accordance in all material respects with such policy as amended from time to time;
  - (ii) if the Trustee has not adopted a conflicts of interest policy, Clause 14A(a) only applies if the relevant director or officer of the Trustee informs the other directors and officers of the Trustee that he or she is in possession of Confidential Information, agrees with them what steps, if any, should be taken to manage the actual or potential conflict of interest or duty and complies with the agreed steps.

**15. ACCOUNTS**

The Accounts of the Scheme shall be made up as at 31 December each year, and as soon as may be thereafter a Statement of Accounts and Balance Sheet, duly audited by the Auditor, shall be delivered to the Trustee. The Auditor shall certify in writing the result of his annual audit conducted pursuant to Clause 6(c) hereof, and shall have access to all papers, accounts and documents connected with the Scheme.

**16. APPOINTMENT OF ACTUARY AND VALUATION**

The Trustee shall appoint the Actuary. The appointment may be revoked at any time and a new appointment made. The Trustee shall cause the Actuary to make an investigation of the Scheme in accordance with the requirements of the Pensions Act 2004 and, in any

event, at intervals of not more than three years, and to report on the financial condition thereof to the Trustee, and to certify whether there is a surplus or a deficiency, and the amount thereof.

At the date of each such valuation, the Actuary shall also consider whether the percentage rate of the additional contribution in respect of Active PEPS Members under paragraph (a) of Rule 12 remains appropriate as representing the additional future service cost of providing PEPS Benefits for Active PEPS Members. If the Actuary advises a change to the percentage to be appropriate for this purpose and if the Trustee agrees, the percentage in Rule 12(a) shall be varied from such date as the Trustee shall decide.

**17. ACTUARIAL SURPLUS**

If the Actuary shall certify, pursuant to Clause 16, that there is surplus of the Fund beyond the requirements of the Scheme the Trustee shall firstly apply such surplus to increase any pension in payment (which shall be taken to have the same meaning as pension has in sub-clause (a) of Clause 19) which from its commencement until 31 July immediately preceding the date of the actuarial investigation has been increased by less in percentage terms than the percentage change in the Index between the pension's commencement and 31 March immediately preceding the date of the actuarial investigation, to or (insofar as the surplus permits) towards such level as shall equal the percentage change in the Index for such latter period and any part of the surplus remaining thereafter may:

- (a) be applied as the Trustee, with the consent in writing of the Company, may determine to increase the amount of pensions, annuities or other benefits prescribed by the Rules, or to reduce the rate of Ordinary Contributions; or
- (b) be beneficially applied by the Trustee on behalf of the Members, Pensioners or their Spouses or their dependants in accordance with the Rules (amended in accordance with this Clause as may be necessary) in such other manner as with like consent it may determine; or
- (c) be carried forward by the Trustee, with like consent, as a reserve,

and any necessary alteration of the trusts and provisions of this Deed and the Rules shall be made in accordance with such determination of the Trustee by Deed executed by the Trustee and the Company. Provided that such surplus, or any part thereof, shall not be applied in any manner which shall:

- (i) cause the main purpose of the Scheme to be other than the provision of pensions and annuities for Members on retirement and for their Spouses and dependants; or
- (ii) result in the return of any part of the Fund to the Firm.

**18. ACTUARIAL DEFICIENCY**

If the Actuary shall certify, pursuant to Clause 16, that there is a deficiency in the Fund, the Company may, at its absolute discretion, require the Firm to make good such deficiency or part thereof. Otherwise the same shall be made good in such manner as the Trustee, with the consent in writing of the Company, may determine, either by alteration of the rates of pensions, annuities and other benefits prescribed by the Rules, or by such other means as may seem appropriate, regard being had to all the circumstances of the case and to the report and advice of the Actuary, and any necessary alteration of the trusts and provisions of this Deed and the Rules shall be made in

accordance with such determination of the Trustee by Deed executed by the Trustee and the Company, provided that no such alteration shall be made which discriminates exclusively against Paid-up Pensioners.

19. **COST-OF-LIVING INCREASES IN PENSIONS**

- (a) Providing that in the opinion of the Actuary the financial state of the Scheme so permits, the Trustee shall increase pensions with effect from 1 July each year by either:
- (i) the percentage change in the Index if that change is less than or equal to five per cent; or
  - (ii) the greater of five per cent and not less than nine-tenths of the change in the Index if that change exceeds five per cent.

For purposes of this Clause the change in the Index shall be determined over the 12 month period ending in March of the year of the particular increase and shall, if necessary, be rounded downwards to the nearest one-tenth of one per cent and pension shall include:

- (iii) any Pensioner's pension or Spouse's Pension;
- (iv) any Paid-up Pension in payment; and
- (v) any Deferred Pension,

which is in payment on 30 June immediately preceding the date the increase is applied and Deferred Pensions, payment of which have been postponed under Rule 53 on that date, but shall exclude any part of a pension which constitutes a Guaranteed Minimum Pension being paid out of the Scheme.

The remainder of this Clause 19(a) shall have effect from the PPS Effective Date. The increase referred to in the foregoing provisions of this sub-clause (a) shall be known as the "Increase".

Where an increase pursuant to sub-clause (a) is to be applied to a pension which has been in payment (or, in the case of a Deferred Pension, in postponement under Rule 53) for less than the full one year period over which the change in the Index is determined (other than a pension payable to a Spouse, Dependent Child or Named Dependant and which pension commenced on termination of the Pensioner, Deferred Pensioner or Paid-up Pensioner's own pension), the increase to be applied to such pension shall be that proportion of the Increase which the period for which the pension has been in payment (or, in the case of a Deferred Pension, in postponement under Rule 53) bears to the full year, the calculation being in completed months (the "**Proportionate Increase**") provided that in relation to:

- (vi) any pension under (or postponed pursuant to Rule 53 of) the Scheme (as distinguished from PPS) and which pension commenced on or after 1 July 1997 the Increase and not the Proportionate Increase shall apply to the increase delivered on 1 July 1998; and

- (vii) any Paid-up Pension attributable to a Paid-up Pensioner under the Scheme (as distinguished from PPS) at 30 June 1998, the Increase and not the Proportionate Increase shall apply to the increase delivered on 1 July next following the date on which the Paid-up Pension comes into payment.

For each person (not being a PPS Transferee) who at the PPS Effective Date was an Active Member of the Scheme aged 45 or over and with ten or more years' Contributory Staff Service, the value of the pension calculated using the benefit basis which applied to that person immediately prior to the PPS Effective Date shall, at the date on which the first increase to pension in payment is applied, be compared to the value of that person's pension calculated using the benefit basis which applied to that person on or after the PPS Effective Date and the greater benefit shall be paid.

- (b) If the Actuary is not of the opinion that the financial state of the Scheme permits an increase under Clause 19(a) in any year, then the Trustee shall have discretion to award in its place an increase under this Clause 19(b) at a rate no greater than the Actuary may advise.
- (c) Any necessary alteration for the purpose of this Clause of the trusts and provisions of this Deed and the Rules shall be made in accordance with the decision of the Trustee by Deed executed by the Trustee and the Company.
- (d) The Trustee shall only increase any Guaranteed Minimum Pension being paid out of the Scheme which accrued in respect of contributory membership of the Scheme on or after 6 April 1988 in accordance with the requirements of the Pensions Legislation as amended from time to time and sub-clauses (a) and (b) of this Clause shall not apply.
- (e) Any pension in payment under the Scheme, which accrued in respect of contributory membership of the Scheme on or after 6 April 1997 other than by reason of the payment of Additional Contributions under Rule 11, shall, where an increase is not provided under sub-clauses (a) or (b) of this Clause or such an increase would be less than that provided for in the Pensions Legislation as amended from time to time, be increased by the Trustee in accordance with the requirements of the Pensions Legislation as amended from time to time, but taking into account the increases (if any) provided under sub-clauses (a) or (b) of this Clause.
- (f) Where the Pensions Legislation specifies that changes to the Index shall be determined over a reference period, for the purposes of the Scheme that period shall be a 12 month period ending in March of the year of the particular increase.

## 20. AMENDMENTS

In addition, but without prejudice, to the powers contained in Clauses 7 (*Assets transferred in*), 17 (*Actuarial surplus*), 18 (*Actuarial deficiency*), and 19 (*Cost-of-living increases in pensions*), all or any of the trusts or provisions of this Deed or of the Rules may at any time be altered by the Trustee, with the consent in writing of the Company, for the purpose of reconstituting the Scheme or otherwise.

Provided that no such alteration shall be made so as to prejudice the rights or interest of any person in receipt of a pension, annuity or other benefit hereunder, or entitled to a

Spouse's Pension, Deferred Pension, Postponed Pension, or a Paid-up Pension hereunder, without his written consent, or without the written consent of a Spouse or dependant so as in any way to prejudice the rights or interest of such Spouse or dependant who, an option having been made in his or her favour under Rule 44 (Annuities) is or may become entitled to receive a benefit thereunder. Provided also that no such alteration shall be made so as to prejudice the rights of any person who is an Active Member at the date of such alteration, unless and until it shall be sanctioned by a resolution passed by a majority of three-fourths of the Active Members for the time being, voting in person or by proxy, as provided for in Rule 73, at a meeting specially convened for that purpose by the Trustee, of which meeting not less than 21 days' notice in writing specifying the proposed alteration shall have been sent to each Active Member, such period of 21 days being reckoned from the date of such notice.

Provided further that no alteration shall be made under this Clause which shall:

- (a) cause the main purpose of the Scheme to be other than the provision of pensions and annuities for Members on retirement and for their Spouses and dependants; or
- (b) result in the return of any part of the Fund to the Firm; or
- (c) discriminate exclusively against Paid-up Pensioners.

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any Active Member shall not invalidate the proceedings of that meeting provided that notice of that meeting stating the purposes thereof shall have been prominently posted in the premises of the Firm at least 21 clear days before the meeting is held.

Provided further that no alteration shall be made to this Clause without the consent in writing of:

- (i) nine-tenths of the Active Members;
- (ii) all the persons in receipt of a pension, or entitled to a Spouse's Pension, Deferred Pension, Postponed Pension, or Paid-up Pension hereunder.

## 21. REGISTER OF MEMBERS

The Trustee shall keep a register of Members, Deferred Pensioners, Postponed Pensioners, Paid-up Pensioners, and all persons in receipt of or entitled to a pension, annuity or other benefit prescribed by the Rules.

## 22. DOCUMENTS

Every person having rights in the Scheme shall be entitled on request to inspect, at such locations as the Trustee from time to time decides, a copy of these presents and the Rules and of all amendments thereof, and of the latest statement of Accounts and Balance Sheet prepared pursuant to the provisions of Clause 15, together with the Auditor's report, and of the latest report of the Actuary prepared pursuant to the provisions of Clause 16. Such person may also ask to be supplied with a copy of any of the above documents, in which case the Trustee shall be entitled to make a charge not exceeding the expense incurred in copying, posting and packing such copy.

23. **ANNUAL REPORT**

As soon as may be after 31 December in each year the Trustee shall prepare and supply on demand to any Member or person in receipt of a pension prescribed by the Rules a report on the Scheme at that date.

24. **CESSATION OF BUSINESS OF THE COMPANY**

(a) In any of the following events that is to say:

- (i) if the Company shall enter into liquidation and another company, firm or undertaking (a "**Successor**") shall (whether in contemplation of or after such liquidation) acquire the whole or substantially the whole of the business and or assets or share capital of the Company; or
- (ii) if the whole or substantially the whole of the share capital of or the business of the Company is acquired by or vested in a Successor by means of takeover, merger, reconstruction or otherwise; or
- (iii) if the Company shall be dissolved by virtue of or pursuant to any statutory provision or any Order of the Court made thereunder or otherwise by a Successor in contemplation of or after a takeover, merger or reconstruction of the Company,

then and in any such case the Company shall only be thereby released from its obligations hereunder on terms that such Successor as aforesaid shall thereupon undertake all said obligations under Clause 5 hereof and shall be substituted for the Company as the party liable to perform the said obligations on such date as shall be agreed with the Trustee and this Deed and the Rules shall thenceforth have effect as if such Successor had been a party to and had executed this Deed in place of the Company and as if references to the Company contained in this Deed and the Rules were references to such Successor.

(b) Notwithstanding paragraph (a) above if the Company shall cease to carry on business in circumstances other than provided in paragraph (a) above under circumstances such that no arrangements can be made to the satisfaction of the Trustee for the maintenance of the Scheme then the Trustee shall wind up the Scheme.

25. **DISTRIBUTION OF FUND ON WINDING-UP**

(a) In the event of the winding-up of the Scheme an actuarial investigation of the Fund shall be made and, subject to the payment thereof of all costs, charges and expenses properly so payable, the Trustee may, with the consent of the Company, apply the Fund for the benefit of all persons in receipt of pensions from the Scheme, all persons for whom the payment of pension has been deferred under the Rules, the Members and the Spouses and dependants of all the aforesaid persons and Members in either of the following ways, that is to say:

- (i) in the establishment of a new Registered Pension Scheme; or
- (ii) in the transfer thereof to any Registered Pension Scheme which may be administered for the benefit of employees of the Firm,

subject, in either case, to the Contributions Office being satisfied with the arrangements for the preservation or transfer of all Contracted-out Rights due in respect of membership of the Scheme.

- (b) In the event of the Trustee deciding not to act in accordance with either of subparagraphs (i) or (ii) of paragraph (a) of this Clause the Fund shall (subject to section 73 Pensions Act 1995) be realised, and the net proceeds of such realisation and any moneys then in hand shall be applied in accordance with the following applications, that is to say:

#### FIRST APPLICATION

In securing the payment of pensions to all those persons who are already in receipt of them from the Fund and to all those persons for whom the payment of pension has been deferred under paragraph (b) of Rule 22 of the Old Consolidated Deed and Rules or under Rule 53.

#### SECOND APPLICATION

In securing the payment of pensions to the Widows or Dependent Children of all persons falling before 6 April 1978 within the category of persons described in the First Application who although not in receipt of pensions from the Fund are contingently entitled on the death of such persons to pensions or annuities under the Rules of the Scheme.

#### THIRD APPLICATION

In securing the payment of pensions accrued prior to 6 April 1978 and calculated on Contributory Staff Service prior to 6 April 1978 and Pensionable Salary as at 6 April 1978 to all Members and other persons and to the Widows and Dependent Children of such Members and other persons who although not in receipt of pensions from the Fund are prospectively entitled on attaining specified ages or on the happening of specified events to pensions under the Rules of the Scheme.

#### FOURTH APPLICATION

In securing the payment of all Contracted-out Rights for and in respect of Members to the extent that such Contracted-out Rights have not already been adequately secured by any one of the earlier Applications.

#### FIFTH APPLICATION

In securing the payment of pensions to the Spouses or Dependent Children of all persons first falling within the category of persons described in the First Application at a date subsequent to 5 April 1978 who although not in receipt of pensions from the Fund are contingently entitled on the death of such persons to pensions or annuities under the Rules of the Scheme to the extent that the payment thereof has not already been secured under the Fourth Application in the form of Contracted-out Rights.

#### SIXTH APPLICATION

In securing the payment of pensions to all Members and other persons and to the Spouses and Dependent Children of such Members and other persons who although not in receipt of pensions from the Fund are prospectively entitled on



attaining specified ages or on the happening of specified events to pensions under the Rules of the Scheme to the extent that the payment thereof has not already been secured under the Third and Fourth Applications.

#### SEVENTH APPLICATION

In securing an equitable increase in the pensions and annuities secured under any one or more of the earlier Applications (provided that if a Member's benefits are still subject to the limits that applied to them immediately before 6 April 2006 by virtue of the previous provisions of the Scheme in force immediately before 6 April 2006 and the limits that applied as requirements of the approval of the Scheme by HMRC then any increase must be within those limits (as increased, indexed or revalued in such manner as the Trustee thinks appropriate)). It is declared that the Trustee may, with the consent of the Company, make special provision to such extent as it considers appropriate in any cases of hardship.

- (c) If the assets of the Fund are insufficient to provide all the foregoing benefits, the benefits of each Application shall take priority over the benefits of all Applications subsequent thereto and the benefits for any Application which cannot be fully secured shall be reduced in the same proportion in respect of all persons (if any) currently in receipt of benefits from the Fund in respect of that Application and shall be reduced in respect of all persons (if any) not currently in receipt of benefits from the Fund in respect of that Application having regard to their prospective prospects of becoming entitled to pensions and to the amount thereof had the Fund continued to exist and no benefits shall be provided under any subsequent Application.
- (d) If, after having provided the benefits under all the Applications, any balance of the Fund then remains unexpended, the Trustee shall refund such balance to the Firm in such proportions as may be determined on actuarial advice.
- (e) Pensions, subject as is provided in paragraph (b) of this Clause, whether commutable or not, shall be secured by non-assignable policies effected with an Insurance Company which policies shall provide for payments under conditions as similar as can be arranged to those prescribed by the Rules. Such policies shall, if appropriate, be endorsed before issue:
  - (i) to show in monetary terms the extent, if any, to which benefits may be taken in lump sum form either as commutation on the Member attaining Normal Retiring Age or on death; and
  - (ii) to the effect that should the Member's benefits become payable at a date earlier than that on which he attains the Normal Retiring Age, such lump sum limit in monetary terms will be appropriately discounted.
- (f) Any such policies issued to secure accrued Contracted-out Rights shall contain or be endorsed with terms so as to secure that:
  - (i) the amount of the annuity is at least equal to the Guaranteed Minimum Pension prospectively due at GMP Pensionable Age and the benefits accrued in respect of Contributory Staff Service on and after 6 April 1997 prospectively due at Normal Retiring Age in respect of membership of the Scheme subject to any required revaluation; and

- (ii) at least to the level of the Guaranteed Minimum Pension the annuity to be non-commutable (except on grounds of triviality or serious ill-health).
- (g) Notwithstanding paragraph (e) above, the Trustee may in its absolute discretion commute any benefit for a lump sum which satisfies the requirements for a winding-up lump sum or serious ill-health lump sum in accordance with the Finance Act 2004 and may make arrangements for withholding and accounting for any tax required to be paid.

26. **CESSATION OF ALLIED COMPANY**

- (a) In any of the following events that is to say:
  - (i) if an Allied Company shall enter into liquidation and another company, firm or undertaking in which the Company has directly or indirectly more than a 50% interest (the "**Controlled Successor**") shall (whether in contemplation of or after such liquidation) acquire the whole or substantially the whole of the business and or assets or share capital of such Allied Company; or
  - (ii) if the whole or substantially the whole of the share capital of or the business of an Allied Company is acquired by or vested in a Controlled Successor by means of takeover, merger, reconstruction or otherwise; or
  - (iii) if an Allied Company shall be dissolved by virtue of or pursuant to any statutory provision or any Order of the Court made thereunder or otherwise by a Controlled Successor in contemplation of or after a takeover, merger or reconstruction of such Allied Company,

then and in any such case such Allied Company shall only be thereby released from its obligations hereunder on terms that such Controlled Successor as aforesaid shall thereupon undertake all said obligations and shall execute a Deed of Covenant with the Trustee in the same terms as the covenant on the part of the Company contained in paragraphs (a) and (c) of Clause 5 hereof.

- (b) Notwithstanding paragraph (a) above if an Allied Company shall cease to carry on business or shall have the whole or substantially the whole of its business or assets or share capital sold in circumstances other than provided in paragraph (a) above and under circumstances such that no arrangements are made to the satisfaction of the Trustee for the continued participation as Members under the Scheme of the employees of such Allied Company then such Members shall be dealt with under Rule 47 (Benefits on withdrawal) except for those Members who agree to any offer (if made) by the Company with the consent of the Trustee to a transfer under Rule 50 but based on such greater amount as the Actuary shall certify to be that portion of the Fund attributable to the Member in question.
- (c) The Trustee has a discretion to apportion to the Company all or any part of the debt arising under section 75 of the Pensions Act 1995 (as amended by the Occupational Pension Schemes (Deficiencies on winding up etc.) Regulations 1996) on the cessation of participation in the Scheme by K. McAnallen Limited. The Trustee may impose such conditions as it thinks fit in respect of the exercise of this discretion including, but not limited to, conditions as to the extent to which the debt is paid or deferred and the timing of any payment.

- (d) No sub-clause.

**26A. SECTION 75 DEBTS**

If a debt becomes due to the Trustee from an Allied Company under section 75 or 75A Pensions Act 1995 or the Debt Regulations, the Company and the Trustee (and any other relevant party) may together enter into either:

- (a) such arrangements on such terms as are permissible under the Debt Regulations to provide that, for the purposes of calculating that debt, the Allied Company's "share of the difference" will be the "scheme apportionment arrangement share", the "regulated apportionment arrangement share", the "withdrawal arrangement share" or the "approved withdrawal arrangement share" instead of the "liability share", all such terms having the meanings given to them in the Debt Regulations; or
- (b) any such other arrangements for managing a debt due under section 75 or 75A of the Pension Act 1995 as may from time to time be permitted under the Debt Regulations.

**26B. FLEXIBLE APPORTIONMENT ARRANGEMENTS**

- (a) For the purposes of this Clause 26B, the expressions "**Employment-Cessation Event**", and "**Flexible Apportionment Arrangement**", shall each have the meaning given to them in Regulation 2(1) of the Debt Regulations, and "**Leaving Employer**" and "**Replacement Employer**" shall each have the meaning given to them in Regulation 6E(7) of the Debt Regulations.
- (b) The Company and the Trustee and any other relevant party may together enter into a Flexible Apportionment Arrangement, as permitted under Regulation 6E of the Debt Regulations and subject to the terms of this Clause 26B, whereby the Replacement Employer takes over responsibility for all the liabilities of the Leaving Employer in relation to the Scheme as those liabilities stand immediately before the Flexible Apportionment Arrangement takes effect (subject to any reduction permitted by the Debt Regulations).
- (c) The Trustee may only exercise the power to enter into an arrangement under Clause 26B(b) above where the requirements of the Debt Regulations and any other applicable legislation have been met.
- (d) The Trustee shall exercise its power under Clause 26B(b) by executing a deed with such other parties as the Trustee considers appropriate setting out the terms of a legally enforceable agreement which shall satisfy the condition set out at Regulation 6E(2)(b)(i) of the Debt Regulations.

**27. DISSOLUTION OF THE SCHEME**

The Scheme may be dissolved:

- (a) with the sanction of a resolution passed by a majority of three-fourths of the Active Members for the time being, voting in person or by proxy, at a meeting specially convened for such purpose; and
- (b) with the consent in writing of every other person for the time being whose rights hereunder would be prejudiced thereby,

and the provisions of Clause 25 (*Distribution of Fund on winding-up*) shall apply.

**27A. AMENDMENTS DURING WINDING-UP**

Where the Scheme is to be dissolved in accordance with Clause 27 or wound-up in accordance with Clause 24, the power of amendment in Clause 20 will continue to be exercisable in any period after the dissolution or winding-up takes effect until the procedure is completed. However, the Trustee may exercise the power without the Company's consent if the Company has gone into liquidation, receivership, administration or been dissolved and no Successor has been appointed to replace the Company in accordance with Clause 24(a).

**28. PREVENTION OF DISCRIMINATION ON GROUNDS OF AGE**

(a) Subject to Clauses 28(b) to 28(j) where on or after 1 December 2006 any of the terms of the Scheme would, but for this Clause, unlawfully treat a person or group (the "**Less Favoured Members**") less favourably than another person or group (the "**More Favoured Members**") on grounds of age then with effect on and from 1 December 2006 (or the date on which the term has effect, if later) the term is modified so as to disapply the more favourable treatment in respect of the More Favoured Members to the extent required to ensure that the application of the term to the More Favoured Members and the Less Favoured Members is not unlawful.

(b) Clause 28(a) shall not apply to the extent that, following any modification of a term pursuant to that Clause, the Scheme would cease to satisfy the statutory standard in accordance with section 12A of the Pension Schemes Act 1993.

(c) In relation to the application of Clause 28(a):

(i) if the Trustee becomes aware that a term has or may have been modified pursuant to Clause 28(a) it shall give written notice of such modification to the Company as soon as reasonably practicable; and

(ii) if the Company becomes aware that a term has or may have been modified pursuant to Clause 28(a) it shall give written notice of such modification to the Trustee as soon as reasonably practicable.

(d) If the Trustee becomes aware that they have been:

(i) making payments to or in respect of Members or Pensioners; or

(ii) making statements to Members about benefits which will or may become payable to or in respect of Members at a future date,

where payment of those benefits constitutes or would constitute a breach of a term as that term is modified by Clause 28(a) then the Trustee shall:

(iii) make whatever adjustments are necessary to benefits in payment or to statements about the payment of future benefits to ensure that from the date of the adjustment the benefits paid and statements made about benefits accurately reflect the provisions of the Trust Deed and Rules and requirements of legislation prohibiting discrimination on the grounds of age; and

- (iv) have power to set off any overpayments of benefit made to or in respect of a Member or Pensioner in breach of a modification of a term pursuant to Clause 28(a) against any future payments of benefit to or in respect of that Member or Pensioner.
- (e) Without prejudice to the provisions of Clause 20 of the Trust Deed and Rules the Trustee with the consent of the Company may in writing direct that any term that has been amended pursuant to Clause 28(a) shall be further amended to have effect (including retrospective effect) so that:
  - (i) the treatment of a person or a group under the term is more favourable than it would have been but for the exercise of this power; and
  - (ii) the application of the term does not constitute unlawful discrimination on grounds of age.
- (f) Where the provision of benefits in respect of More Favoured Members as modified pursuant to Clause 28(a) (the "**Post-equalisation Benefits**") would, in the opinion of the Actuary, cost less than the provision in respect of the More Favoured Members of the benefits which would have been provided if the modification had not been made (the "**Pre-equalisation Benefits**") the following shall apply:
  - (i) the Trustee may request the Actuary to calculate the difference, in his opinion, between the cost of providing the Pre-equalisation Benefits and of providing the Post-equalisation Benefits in respect of the More Favoured Members (the "**Difference**");
  - (ii) unless the Difference is *de minimis*, the Company shall consent to the Trustee amending the Trust Deed and Rules if it decides in its absolute discretion to increase the value of benefits provided under the Trust Deed and Rules by an amount certified by the Actuary as being, in his opinion, reasonably equivalent to the Difference;
  - (iii) the Trustee with the consent of the Company shall have full power to determine the form of the increased benefits pursuant to Clause 28(f)(ii) provided that the provision of the increased benefits does not constitute unlawful discrimination on grounds of age;
  - (iv) for the avoidance of doubt, this Clause 28 shall not apply to any Difference attributable in the opinion of the Actuary to the closure of the PEPS Supplement to new PEPS Members with effect from the end of the last day before 1 December 2006; and
  - (v) when carrying out any functions pursuant to this Clause the Actuary shall be entitled to make such assumptions as he in his absolute discretion considers reasonable.
- (g) In this Clause, a "**term**" means a term under the Trust Deed and Rules and any provision, criterion, action, decision or practice applied by the Firm or the Trustee as to the terms on which a person becomes an Active Member or is treated as a Member or Pensioner.
- (h) This Clause does not have effect in relation to rights accrued or benefits payable in respect of periods of Qualifying Service prior to 1 December 2006 (or the date on which the relevant term has effect, if later).

- (i) Notwithstanding any other provisions in the Trust Deed and Rules regarding the making of payments which would not be authorised payments for the purposes of the Finance Act 2004, the Trustee shall have power to make a payment from the assets of the Scheme that is or may be an Unauthorised Member Payment for the purposes of that Act where the payment is made in breach of a term as that term is modified by Clause 28(a) and:
- (i) the Trustee was not aware of the breach at the time the payment was made;
  - (ii) the Trustee was aware of the breach at the time the payment was made but it was not reasonably practicable to prevent the payment being made; or
  - (iii) the Company has consented to the payment being made.
- (j) The Trustee with the consent of the Company shall have full power to determine any matters of ambiguity or dispute arising out of the application of this Clause to the terms of the Scheme.

In witness whereof the Trustee and the Company have hereunto caused their Common Seals to be affixed the day and year first before written.

Signed as a deed on behalf of **Pilkington**)  
**Brothers Superannuation Trustee Limited** by: )

Company Director

Company Director/Secretary

Signed as a deed on behalf of **Pilkington Group**)  
**Limited** by: )

Company Director

Company Director/Secretary

**SCHEDULE 1**

**Particulars of Deeds establishing and regulating**

**THE SCHEME**

| <b>Date</b>      | <b>Particulars</b>   |
|------------------|--|
| 1 September 1965 | Deed of this date made between Pilkington Brothers Superannuation Trustee Limited and Pilkington Superannuation Investments Limited (together, the " <b>then trustees</b> ") of the first part Pilkington Brothers Limited of the second part and Chance Brothers Limited of the third part. |
| 1 October 1966   | Deed of this date made between the then trustees of the one part and Pilkington Brothers Limited of the other part.  |
| 13 October 1967  | Deed of Declaration of this date made between the then trustees of the one part and Pilkington Brothers Limited of the other part.   |
| 17 July 1968     | Deed of Adherence of this date made between the then trustees of the first part Pilkington Brothers Limited of the second part and Pearson Pugh Limited of the third part.   |
| 1 December 1970  | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 24 April 1972    | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 22 December 1972 | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 26 March 1975    | Deed of Declaration of this date made between the then trustees of the one part and the Company of the other part.   |
| 4 April 1975     | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 1 October 1975   | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 10 October 1975  | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 1 February 1976  | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 29 December 1976 | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 1 March 1978     | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 7 May 1980       | Deed of this date made between the then trustees of the one part and the Company of the other part.  |



| <b>Date</b>      | <b>Particulars</b>   |
|------------------|--|
| 23 November 1982 | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 10 May 1984      | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 13 May 1986      | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 27 November 1986 | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 20 July 1988     | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 5 July 1989      | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 21 December 1990 | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 7 October 1991   | Deed of this date made between the then trustees of the one part and the Company of the other part.  |
| 11 July 1995     | Deed of this date made between the Company of the one part and the then trustees of the other part.  |
| 25 February 1997 | Deed of this date made between the Company of the one part and the then trustees of the other part.  |
| 30 June 1998     | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 30 June 1998     | Merger Agreement of this date made between the Company of the first part the Trustee of the second part and Pilkington Brothers Workmen's Pension Fund Trustee Limited and Pilkington Brothers Pension Investments Limited of the third part.  |
| 8 July 1998      | Deed of Amendment of this date made between the Company of the first part the Trustee of the second part and Pilkington Brothers Workmen's Pension Fund Trustee Limited and Pilkington Brothers Pension Investments Limited of the third part. |
| 1 June 2000      | Consolidated Trust Deed and Rules of this date made between the Trustee of the one part and the Company of the other part and effective 1 July 1998.   |
| 1 June 2000      | Consolidated Trust Deed and Rules of this date made between the Trustee of the one part and the Company of the other part and effective 30 June 2000.  |
| 1 June 2000      | Merger Agreement of this date made between the Company of the first part, the Trustee of the second part and Pilkington Supplementary  |

| <b>Date</b>      | <b>Particulars</b>   |
|------------------|--|
|                  | Pension Scheme Trustee Limited of the third part.  |
| 27 June 2000     | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 18 December 2001 | Supplemental Deed of this date made between the Trustee of the one part and the Company of the other part.   |
| 16 January 2002  | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 29 January 2004  | Consolidated Trust Deed and Rules of this date made between the Trustee of the one part and the Company of the other part and effective 1 February 2004.                                       |
| 3 January 2006   | Consolidated Trust Deed and Rules of this date made between the Trustee of the one part and the Company of the other part and effective 1 December 2005.                                       |
| 5 April 2006     | Interim Amending Deed of this date made between the Company of the one part and the Trustee of the other part and effective 6 April 2006.  |
| 26 June 2006     | Deed of Amendment of this date made between the Company of the one part and the Trustee of the other part and effective in part on that date and on 1 July 2007 in relation to the other part. |
| 1 December 2006  | Interim Amending Deed of this date made between the Trustee of the one part and the Company of the other part.   |
| 16 May 2007      | Deed of this date made between the Company of the one part and the Trustee of the other part.  |
| 12 August 2008   | Deed of this date made between the Company of the one part and the Trustee of the other part.  |
| 16 December 2008 | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 16 March 2011    | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 24 March 2011    | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 20 December 2011 | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 6 February 2012  | Deed of this date made between the Trustee of the one part and the Company of the other part.  |
| 28 February 2012 | Deed of this date made between the Trustee of the one part and the Company of the other part.  |

| <b>Date</b>      | <b>Particulars</b>  |
|------------------|---|
| 29 February 2012 | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 14 August 2012   | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 3 July 2013      | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 3 June 2014      | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 14 April 2015    | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 3 September 2015 | Resolution of this date made by the Trustee and amending the Consolidated Deed.               |
| 4 April 2016     | Deed of this date made between the Trustee of the one part and the Company of the other part. |
| 20 June 2017     | Deed of this date made between the Trustee of the one part and the Company of the other part. |

## SCHEDULE 2

### The rules of the Pilkington Superannuation Scheme

#### Section I - Introduction

1. **DEFINITION**

In the Rules the term the "Trust Deed" means the Deed by which this edition of the Rules was adopted and any amendments to that Deed from time to time in force.

2. **NAME**

The name of the Scheme is The Pilkington Superannuation Scheme.

3. **MAIN PURPOSE**

The main purpose of the Scheme is the provision of pensions and annuities for Members upon their retirement at specified ages from the service of the Firm and for their Spouses and dependants.

#### SECTION II – MEMBERSHIP

4. **ELIGIBILITY**

No person shall be eligible to join the Scheme after 30 September 2008.

5. No Rule

6. No Rule

7. **CONTINUANCE OF MEMBERSHIP**

Once an employee has been accepted as an Active Member he shall remain an Active Member, and the contributions prescribed by the Rules in respect of his membership shall continue to be due until he shall cease to be an Active Member in accordance with Rule 8.

8. **TERMINATION OF ACTIVE MEMBERSHIP**

An Active Member shall cease to be an Active Member when he retires on pension or exercises his right under Rule 22(e) or Rule 88(a)(v) to receive a pension while remaining in employment with the Firm, or when he becomes entitled to a Paid-up Pension, or when, before retiring on pension, he dies, or, subject to the operation of Rule 9 (National Service) when he ceases to be employed on the staff of the Firm, or when any one of the events specified in paragraph (b) of Rule 52 (Former Members in Group Employment) happens to him.<sup>7</sup>

An Active Member shall also cease to be an Active Member, and become entitled to benefit under the provisions of Rule 51A, if whilst employed on the staff of the Firm, he gives notice in writing to the Secretary that he no longer wishes to be an Active Member. Such notice shall be deemed to take effect on the last day of the calendar month in which it is received by the Secretary.

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<sup>7</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

An Active Member shall also cease to be an Active Member, and become entitled to benefit under the provisions of Rule 36(b), if whilst employed on the staff of the Firm, he gives notice in writing to the Secretary expiring on or after Normal Retiring Age that he no longer wishes to be an Active Member. Such notice shall be deemed to take effect on the last day of the calendar month in which it is received by the Secretary.

An Active Member shall cease to be an Active PEPS Member (though without otherwise ceasing to be an Active Member under the Basic PSS Rules if he remains eligible) if the Trustee on the direction of the Firm gives him notice to this effect and with effect on the date specified in that notice.

9. **NATIONAL SERVICE**

If any Active Member ceased or ceases to be employed on the staff of the Firm by reason of National Service, his Contributory Staff Service shall be deemed to have continued or to continue for the period of his National Service, so long as his contributions were or are paid in such manner as the Company shall direct or permit. National Service shall mean compulsory whole time service or, during a state of war or national emergency, voluntary whole-time service undertaken, with the consent of the Company, in:

- (i) the armed forces or auxiliary forces of the Crown;
- (ii) the corresponding women's services;
- (iii) the merchant navy or mercantile marine;
- (iv) any such civilian employment or nursing service or civil defence service as the Company shall from time to time declare to be of national importance,

and shall include any period immediately following such National Service which the Company shall declare to be included therein.

**Section III - Contributions**

10. **ORDINARY CONTRIBUTIONS**

- (a) Every Active Member except Salary Sacrifice Members shall pay contributions calculated in accordance with the following provisions of this Rule, and such contributions are hereinafter called "**Ordinary Contributions**"<sup>8</sup>.
- (b) A Member's Salary shall:
  - (i) mean the annual rate of fixed remuneration paid to him by the Firm, together with, where applicable, payments in the nature of (a) Representative's Incentive Bonus (b) Shift Allowances and with effect from 12 May 1995 (c) payments arising from a profit-related pay scheme registered with HMRC for the purposes of Chapter III of Part V of the Income and Corporation Taxes Act 1988 and also together with, where applicable, any such sum as the Company may determine to represent the value of any living accommodation or any benefit in kind approved by the Company for this purpose and provided by the Firm without charge to the Member. In the case of a Member who is employed upon a part time basis the annual rate of fixed remuneration shall be determined by

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<sup>8</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

reference to the amount which he is actually paid by the Firm for his part time employment, without reference to the appropriate rate of fixed remuneration for full time employment. PROVIDED THAT for the purpose of this definition of Salary, for a Member receiving benefits under any Company Salary Sacrifice Facility, the annual rate of fixed remuneration means such amount as the Company determines his or her annual rate of fixed remuneration would have been had he or she not been receiving benefits under any Company Salary Sacrifice Facility during the period in question;

- (ii) not exceed its level as at 30 April 2013, except in circumstances where a Member receives a Shift Allowance or any other allowance after that date which the Company agrees would have been pensionable prior to 1 May 2013, in which case that allowance shall be taken into account when calculating a Member's Salary but only to the level of that allowance as at 30 April 2013. This Rule 10(b)(ii) shall be ignored for the purposes of calculating a Member's benefits under Rules 23 and 37 and any death benefits payable on the death of an Active Member<sup>9 10</sup>.

In any case of doubt a Member's Salary shall be the pensionable remuneration of the Member as determined by the Company.

- (c) A Member's Normal Salary shall be his Salary calculated at 1 January and 1 July in each year and, in the case of a Member changing between employment on a full time and a part time basis or between permanent shift and day work his Salary calculated on the date of the change, on the basis of:
  - (i) the amount of fixed remuneration paid to him for the first pay period after each such date; plus
  - (ii) the average, over the six months immediately preceding each such date, of any further payments as are mentioned in paragraph (b) of this Rule.

Provided that

- (1) when any Member is absent from work through incapacity caused by sickness or injury on any 1 January or 1 July, his Normal Salary shall be deemed to be that Salary which, in the opinion of the Company, he would then have been receiving but for such absence;
  - (2) for each person who was an Active Member of the Scheme immediately before the PPS Effective Date and who was an Active Member on the PPS Effective Date, Normal Salary shall be increased on the PPS Effective Date by five per cent for each of the best two consecutive years within the ten years immediately preceding the PPS Effective Date.
- (d) A Member's Pensionable Salary is his Normal Salary as defined in Rule 10(c) for a year less a cumulative sum for the same period representing a disregard

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<sup>9</sup> This includes both the lump sum death benefits and any dependants' pensions payable.

<sup>10</sup> Amendment made by deed of amendment dated 3 June 2014 with effect as of and from 18 December 2013.

calculated as 70% of the annual State flat rate pension for a married couple provided that:

- (i) any increase in such State pension shall only apply with effect from 1 January or 1 July next following such increase;
- (ii) when the disregard is re-calculated it shall be rounded up to the nearest whole pound;
- (iii) with effect from 31 March 2013 the disregard shall be fixed at £6,256 and shall not increase after that date, except in the case of any Member who did not agree with the Firm before 1 April 2013 that his or her Salary shall not increase after 30 April 2013 as provided for under Rule 10(b)(ii); and
- (iv) in the case of a Member who is employed on a part time basis the disregard shall be calculated in accordance with the following formula:

$$£X \times \frac{PTH}{FTH}$$

where:

PTH represents the number of hours the Member is contracted to work each week as determined by the Firm.

FTH represents the number of hours the Firm determines that the Member would be contracted to work each week if he were employed in equivalent work on a full time basis.

£X represents the disregard calculated in accordance with this paragraph.

- (e) Every Active Member who is a Higher Accrual Member will pay Ordinary Contributions calculated at the rate of eight per cent of his Pensionable Salary.
- (f) Every Active Member who is a Lower Accrual Member will pay Ordinary Contributions calculated at the rate of five and one-half per cent of his Pensionable Salary.
- (g) A Higher Accrual Member may elect to become a Lower Accrual Member on and from the following 1 January or 1 July in any year subject to any condition imposed by the Trustee.
- (h) A Lower Accrual Member shall not become a Higher Accrual Member.

## 11. ADDITIONAL CONTRIBUTIONS

- (a) Any Active Member may, upon giving notice in writing to the Secretary and completing such forms/making such further decisions as required, pay contributions (subject to the provisions of paragraphs (d) and (e) of this Rule) in excess of his Ordinary Contributions, and such excess contributions are hereinafter called "**Additional Contributions**". Any such notice in respect of Additional Contributions shall also specify whether<sup>11</sup>:

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<sup>11</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

- (i) such Additional Contributions are to provide a pension in accordance with the formula set out in Rule 21, (in which event such Additional Contributions shall be in whole percentages of Pensionable Salary); or
  - (ii) they are to be invested by the Trustee with an Insurance Company of the Trustee's selection to provide such benefits at retirement or earlier withdrawal from employment by the Firm or on the Member's death before retirement, as are provided by the policy with the Insurance Company (in which event such Additional Contributions shall be no less than one-half per cent of Pensionable Salary).
- (b) An Active Member, who is also a Salary Sacrifice Member, shall not be required to pay Additional Contributions under Rule 11(a) for any period during which he is participating in a Company Salary Sacrifice Facility in relation to those Additional Contributions<sup>12</sup>.
- (c) Additional Contributions shall be payable as from the first day of the calendar month following that in which such notice is received by the Secretary<sup>13</sup>.
- (d) An Active Member shall not be permitted (in aggregate) to pay Additional Contributions or enter into a Company Salary Sacrifice Facility in relation to Additional Contributions at a rate exceeding 10 per cent of his Pensionable Salary<sup>14</sup>.
- (e) An Active Member paying Additional Contributions may discontinue such contributions by giving notice in writing to the Secretary, such notice being deemed effective from the date on which it is put into effect by the Firm<sup>15</sup>.
- (f) For the purpose of succeeding Rules, Additional Contributions shall include<sup>16</sup>:
- (i) in the case of a Member who was, immediately prior to the 1962 Operative Date, a subscriber to the Pilkington Fund, his extraordinary contributions paid thereto prior to the 1962 Operative Date; or
  - (ii) in the case of a Member who was, immediately prior to the 1962 Operative Date, a subscriber to the Chance Fund, his extraordinary deductions paid thereto prior to the 1962 Operative Date.

## 12. FIRM'S CONTRIBUTION

- (a) Upon each payment of Salary to the Active Members from time to time employed by it, the Firm shall subject as hereinafter provided pay the Trustee a contribution of ten and one-half per cent of the total of the Pensionable Salaries of all such Active Members together with in the case of the Active PEPS Members an additional contribution of five per cent of the total of the Salaries of all such Active

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<sup>12</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>13</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>14</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>15</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>16</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.



PEPS Members. This latter percentage may be varied in accordance with Clause 16 of the Trust Deed.

The Firm shall be entitled to deduct from such contribution any Contributions Equivalent Premiums which it has paid since the payment of the last such contribution, and shall pay the balance of such contribution into the Fund.

- (b) In addition to the contributions payable under paragraph (a) of this Rule, the Firm shall pay to the Trustee an amount equivalent to the remuneration sacrificed by Salary Sacrifice Members in relation to Ordinary Contributions (or contributions deemed to be Ordinary Contributions under Rule 15(c)) and Additional Contributions<sup>17</sup>.

Amounts paid under this Rule 12(b) shall be deemed to be Ordinary Contributions and Additional Contributions (as appropriate) for the purpose of determining the benefits payable to or in respect of a Member or Pensioner under the Rules<sup>18</sup>.

- (c) In addition to its contributions payable under paragraphs (a) and (b) of this Rule, the Firm shall pay to the Trustee, if the Trustee so requires, the reasonable costs of insuring against the liability to pay the lump sum death benefit specified in paragraph (f) of Rule 38<sup>19</sup>.
- (d) In addition to the contributions under paragraphs (a), (b) and (c) of this Rule, the Firm shall pay to the Trustee such additional contributions (if any) as shall be necessary, as determined by agreement between the Trustee and the Company in accordance with section 229 of the Pensions Act 2004, following a valuation of the Scheme under Part 3 of that Act, to enable the Trustee to cover the Scheme's technical provisions in accordance with that Part after taking into account the Active Member's Ordinary Contributions which are payable under Rule 10 and such amount as is deemed under paragraph (b) above to be attributable to Ordinary Contributions<sup>20</sup>.

### 13. DEDUCTION OF CONTRIBUTIONS

The contributions of each Active Member shall be deducted from each payment of his Salary by the Firm, and shall be paid into the Fund.

### 14. CESSATION OF CONTRIBUTIONS

The contributions of an Active Member shall cease when he ceases to be an Active Member.

### 15. ABSENCE THROUGH INCAPACITY

- (a) Subject to Rule 15A below, if an Active Member is absent from work through incapacity caused by sickness or injury, then, subject to there being delivered to the Secretary such medical certificate as the Trustee shall from time to time

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<sup>17</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>18</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>19</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>20</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

require, the following provision of this Rule shall have effect for the duration of such absence.

- (b) In respect of any period during which such Member receives from the Firm his Salary less only deductions which the Firm shall make under the provisions of any Staff Sickness and Injury Benefit Scheme of the Firm to take account of sickness benefit or injury benefit under the Social Security Contributions and Benefits Act 1992, his Ordinary Contributions shall be calculated in the manner provided by Rule 10.
- (c) In respect of any period during which such Member's Salary is reduced by the Firm (other than only by deductions on account of sickness benefit or injury benefit as referred to in paragraph (b) of this Rule) on account of his absence from work he shall pay contributions which on and from the PPS Effective Date shall be at the rate of five and one-half per cent of such amount of salary as he may actually receive from the Firm less the amount of disregard calculated in accordance with paragraph (d) of Rule 10 and such reduced contributions shall be deemed to be Ordinary Contributions. With effect on and from 1 January 2009, such Member shall pay contributions at the rate of five and one-half per cent (if the Member is a Lower Accrual Member) or eight per cent (if the Member is a Higher Accrual Member) of such amount of salary as he may actually receive from the Firm less the amount of disregard calculated in accordance with paragraph (d) of Rule 10 and such reduced contributions shall be deemed to be Ordinary Contributions. With effect on and from 1 June 2015, such Member shall, unless he is a Salary Sacrifice Member, pay contributions at the rate of five and one-half per cent (if the Member is a Lower Accrual Member) or eight per cent (if the Member is a Higher Accrual Member) of such amount of salary as he may actually receive from the Firm less the amount of disregard calculated in accordance with paragraph (d) of Rule 10 and such reduced contributions shall be deemed to be Ordinary Contributions<sup>21</sup>.
- (d) For the purpose of ascertaining the contribution of the Firm under Rule 12 (except Rule 12(b)) such Member's Pensionable Salary throughout such period shall be calculated as if such Member continued to receive his Normal Salary without any deductions (calculated in accordance with paragraph (c) of Rule 10 and, where applicable, with the proviso thereto). The Firm shall also make good the deficiency between such Member's reduced contributions payable under paragraph (c) of this Rule and:
  - (i) if the Member is not a Salary Sacrifice Member, his Ordinary Contributions which would otherwise be payable under Rule 10; or
  - (ii) if the Member is a Salary Sacrifice Member, the amount payable by the Firm in respect of him under Rule 12(b) during the period of absence in respect of which this Rule 15 applies<sup>22</sup>.
- (e) Such Member shall, unless he is a Salary Sacrifice Member, remain liable to pay his Additional Contributions, but the Trustee may allow him<sup>23</sup>:

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<sup>21</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>22</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

- (i) to defer payment thereof until his return to work; or
- (ii) on the grounds of hardship, to discontinue to pay them or to reduce the rate thereof.

**15A. FAMILY LEAVE**

Where an Active Member goes on Family Leave, the following provisions shall apply:

- (a) the period of Family Leave will be treated as Contributory Staff Service provided that the Member returns to the Firm's employment immediately following the period of Family Leave; or
- (b) the period of Family Leave will be treated as Contributory Staff Service, but only in respect of any such period during the absence for which the Member is in receipt of remuneration (whether statutory or contractual), if he does not return to the Firm's employment immediately following the period of Family Leave;
- (c) during the period of Family Leave, Ordinary Contributions and Firm's Contributions will not be payable except in so far as they relate to the amount payable under Rule 12(b) equivalent to the remuneration sacrificed by Salary Sacrifice Members in relation to Additional Contributions<sup>24</sup>;
- (d) in respect of any period of Family Leave, for the purpose of assessing benefits, the Member will be treated as receiving the remuneration he would have received if he had continued to work normally during that period; and
- (e) if the Member dies whilst on Family Leave, death benefits will be payable under Rules 38 and 41 and will be calculated on the basis of the remuneration the Member would have received if he had continued to work normally during that period.

**16. ABSENCE**

- (a) If an Active Member shall be absent without pay, in circumstances other than those addressed by Rule 15A, the following provisions of this Rule shall apply.
- (b) In respect of any period or periods not exceeding in all five days in any one year the contributions in respect of his membership shall be payable in full.
- (c) This paragraph (c) takes effect as of and from 1 July 1998; the references to PEPS Members apply as of and from the PEPS Merger Date. In respect of any period or periods in excess of five days the contributions of the Firm under Rule 12 shall be reduced by an amount which equates to the percentage of such Member's Pensionable Salary payable by the Firm as contributions and additional contributions for the period in question under paragraphs (a) and (d) of Rule 12 and either<sup>25</sup>:
  - (i) until 31 December 2008, the Member may, if he wishes, contribute at the rate of 16 per cent of his Pensionable Salary (together, in respect of a

<sup>23</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>24</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

<sup>25</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

PEPS Member, with a further percentage of the Member's Pensionable Salary equal to the percentage of the additional Firm contribution otherwise payable for the period in question under paragraph (a) of Rule 12), plus his Additional Contributions if any; or

- (ii) with effect on and from 1 January 2009, the Member may, if he wishes, contribute at the rate of 18 per cent (if the Member is a Lower Accrual Member) or 24 per cent (if the Member is a Higher Accrual Member) of his Pensionable Salary or such other rate as may be determined by the Trustee from time to time (together, in respect of a PEPS Member, with a further percentage of the Member's Pensionable Salary equal to the percentage of the additional Firm contribution otherwise payable for the period in question under paragraph (a) of Rule 12), plus his Additional Contributions if any; or
  - (iii) in any other case such excess period shall be excluded from the period of his Contributory Staff Service.
- (d) For the purpose of this Rule such Member's contributions shall be based on his Pensionable Salary for the period current at the beginning of his absence.
- (e) For the avoidance of doubt, if a Member dies during a period of absence covered by this Rule 16, he shall be entitled to death benefits under Rules 38 and 41. These benefits shall be based on his Normal Salary at the beginning of his period of absence.

**17. EMPLOYMENT ABROAD**

In respect of any period during which a Member is employed by the Firm outside the United Kingdom, and is not a member of or a contributor to a pension or superannuation scheme of the Firm administered outside the United Kingdom other than the Scheme, the Trustee may, with the consent of the Company, and with the approval of the Actuary notwithstanding the provisions of Rule 10, permit such Member to contribute on the basis of his Normal Salary or such proportion thereof as they consider appropriate, and, for any periods of such Member's Contributory Staff Service during which he has been permitted to contribute on such basis, the formulae contained in Rules 20 and 21 shall be appropriately amended, or make such other arrangements as they think fit for the alteration or suspension of his contributions and for any consequential adjustment of his rights hereunder.

The Trustee shall not permit such Member to contribute to the Scheme if the payment of such contributions would cause the Scheme to become a "cross-border scheme" for the purposes of The Occupational Pension Schemes (Cross-border Activities) Regulations 2005. In these circumstances, the Member's Contributory Staff Service will terminate.

**18. CONTRIBUTORY STAFF SERVICE**

Contributory Staff Service shall mean the period or the aggregate of the periods of a Member's service on the staff of the Firm during which he contributed to the Fund, or to the Pilkington Fund or to the Chance Fund prior to the 1962 Operative Date, or was a Salary Sacrifice Member, other than service in respect of which he has received benefit under Rule 48 (Refund of contributions) or Rule 50 (Transfer to another pension scheme

or insurance policy), and other than service in respect of which he has maintained his right to a Deferred Pension under Rule 53 or Paid-up Pension under Rule 51<sup>26</sup>.

In calculating a Member's Contributory Staff Service the following provisions shall apply:

- (a) If he was employed on the staff of the Firm before he first contributed and he first contributed before 1 April 1978 his Contributory Staff Service shall be deemed to have commenced on whichever was the latest of:
  - (i) the date he joined the staff of the Firm;
  - (ii) his 18th birthday; or
  - (iii) the date 12 months before his first contribution.
- (b) If he was employed on the staff of the Firm before he first contributed and he first contributed after 31 March 1978 but before 6 April 1988 his Contributory Staff Service shall be deemed to have commenced either:
  - (i) if he was under the age of 18, on the date he joined the staff of the Firm; or
  - (ii) if he was aged 18 or over, the terms of provision (a) above shall apply with the substitution therein of the words "on or after 1 April 1978" for the words "before 1 April 1978".
- (c) No paragraph.
- (d) If he was employed for any period of his Contributory Staff Service on a part time basis, then for such period, his Contributory Staff Service shall be calculated in accordance with the following formula:

$$p \times \frac{PTH}{FTH}$$

where

p represents the period of his Contributory Staff Service during which he was employed on a part time basis.

PTH represents the number of hours the Member was contracted to work each week during the period of his Contributory Staff Service during which he was employed on a part time basis.

FTH represents the number of hours the Member would have been contracted to work each week if he had been employed on a full time basis during that period.

- (e) The total of a Member's Contributory Staff Service shall be increased if necessary to arrive at an exact number of completed calendar months, and each completed calendar month shall be reckoned as one-twelfth part of a year.

Provided that when a Member's Contributory Staff Service consists of more than one period the aggregate of such periods shall not when added to any intervening

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<sup>26</sup> Amendment made by deed of amendment allowing members to enter into a salary sacrifice arrangement dated 14 April 2015 with effect as of and from 1 June 2015.

periods which do not rank as Contributory Staff Service exceed the period which would have been calculated under this paragraph (e) of this Rule had his Contributory Staff Service commenced on the date of commencement of the first period of such Contributory Staff Service and terminated on the date of termination of the last period of such Contributory Staff Service.

- (f) If a Member's employment with the Firm was regarded by reason of his membership of the Scheme as a Contracted-out Employment and within six months of leaving such employment he returns to an employment with the Firm, which is also regarded by reason of his membership of the Scheme as a Contracted-out Employment, the two periods of Contracted-out Employment will be regarded as continuous for the purposes of the Pension Schemes Act 1993 provided a Contributions Equivalent Premium has not been paid in respect of such Member or, if a Contributions Equivalent Premium has been paid, it has been refunded by the Department of Work and Pensions.
- (g) Without prejudice to the provisions of Clause 9, no PPS Transferee shall have any period of service before the PPS Effective Date recognised as Contributory Staff Service.
- (h) In respect of a PEPS Member, Contributory Staff Service used to calculate his PEPS Benefits may, if the Trustee at its discretion so decides, be increased to include additional service which has been secured under the Basic PSS Rules as a result of the Trustee accepting sums of money under Clause 8(b) or Rule 25.

#### **SECTION IV – PENSIONS PAYABLE UPON RETIREMENT**

##### **19. AVERAGE RETIRING SALARY**

In relation to any Member who retires on or after the PPS Effective Date, Average Retiring Salary shall mean his average Normal Salary over whatever period of two consecutive years out of the last ten years of his Contributory Staff Service provides the highest average. Provided that, for the purposes of this Rule, the Normal Salary of a Member who was, for the whole or some part of the last ten years of his Contributory Staff Service, employed on a part time basis, shall, for each period during which he was employed on such a basis, be deemed to have been the appropriate annual rate of fixed remuneration for full time employment.

Provided also that, in the case of a Member who has been transferred to a post carrying a lower Salary, then, unless such transfer is made because of inefficiency or misconduct or at his own request on grounds other than ill-health, for the purpose of calculating his Average Retiring Salary his Normal Salary during any period in the last ten years of his Contributory Staff Service which follows such transfer shall be deemed to be whichever is the greater of:

- (a) his Normal Salary for that period; or
- (b) his Normal Salary immediately before his transfer to a post carrying a lower salary.

##### **20. NORMAL PENSION IN RESPECT OF ORDINARY CONTRIBUTIONS**

- (a) The normal pension in respect of the Ordinary Contributions of an Active Member who retires on attaining the Normal Retiring Age shall be an annual amount calculated in accordance with the following formulae:

- (i) in respect of the Member's Contributory Staff Service before 1 February 2004,

$$\left(\frac{n}{60} \times ARS\right) - \left(\frac{\pounds x}{60}\right)$$

where

n represents such Member's total number of years of Contributory Staff Service before 1 February 2004.

ARS represents such Member's Average Retiring Salary calculated in accordance with Rule 19.

In respect of any particular period of the Member's Contributory Staff Service after 31 December 1968 and before 1 February 2004,  $\pounds x$  represents the sum of the disregards calculated each year on 1 January and 1 July in accordance with paragraph (d) of Rule 10 during the Member's relevant period of Contributory Staff Service. Where the Member's relevant period of Contributory Staff Service does not coincide with the dates on which the disregard is calculated, the first and/or the last disregard (as appropriate) to be included in the calculation of  $\pounds x$  will be adjusted on a proportionate basis to reflect the period during which that level of disregard applied to the Member under paragraph (d) of Rule 10.

- (ii) in respect of the Member's Contributory Staff Service on or after 1 February 2004 until 31 December 2008,

$$\left(\frac{n}{60}\right) \times (ARS - \pounds Z)$$

where

n represents such Member's total number of years of Contributory Staff Service on or after 1 February 2004 until 31 December 2008;

ARS represents such Member's Average Retiring Salary calculated in accordance with Rule 19.

$\pounds Z$  represents the disregard calculated in accordance with paragraph (d) of Rule 10 but without making any adjustment in respect of employment on a part-time basis expressed as a time-weighted average annual rate for the actual period over which the Member's Normal Salary was averaged under Rule 19 to calculate Average Retiring Salary.

- (iii) in respect of the Higher Accrual Member's Contributory Staff Service on or after 1 January 2009,

$$\left(\frac{n}{60}\right) \times (ARS - \pounds Z)$$

where

- n represents such Member's total number of years Contributory Staff Service on or after 1 January 2009;
- ARS represents such Member's Average Retiring Salary calculated in accordance with Rule 19;
- £Z represents the disregard calculated in accordance with paragraph (d) of Rule 10 but without making any adjustment in respect of employment on a part-time basis expressed as a time-weighted average annual rate for the actual period over which the Member's Normal Salary was averaged under Rule 19 to calculate Average Retiring Salary.

(iv) in respect of a Lower Accrual Member's Contributory Staff Service on or after 1 January 2009,

$$\left( \frac{n}{80} \right) \times (ARS - £Z)$$

where

- n represents such Member's total number of years Contributory Staff Service on or after 1 January 2009;
- ARS represents such Member's Average Retiring Salary calculated in accordance with Rule 19;
- £Z represents the disregard calculated in accordance with paragraph (d) of Rule 10 but without making any adjustment in respect of employment on a part-time basis expressed as a time-weighted average annual rate for the actual period over which the Member's Normal Salary was averaged under Rule 19 to calculate Average Retiring Salary.

Provided in each case that in respect of the Member's Contributory Staff Service after 5 April 1978 the annual amount of pension produced by the above formulae shall not be less than the annual amount of pension produced by the following formula:

$$\frac{y}{80} \times APS$$

where

- y represents such Member's total number of years of Contributory Staff Service after 5 April 1978.
- APS represents such Member's Average Pensionable Salary being his average Normal Salary over whatever period of three consecutive years after 5 April 1978 out of the last ten years of his Contributory Staff Service provides the highest such average, ignoring any deductions therefrom or reductions thereof on account of absence through incapacity caused by sickness or injury. For the purpose of such calculation there shall in respect



of each of the three consecutive years over which his Normal Salary is average be deducted from his Normal Salary an amount equivalent to one and a half times the Lower Earnings Limit in force for that year or, if more than one, the arithmetical mean of the Lower Earnings Limits in force during that year. If such Member has less than three consecutive years' Contributory Staff Service after 5 April 1978 such Member's Average Pensionable Salary shall be calculated over the whole of such Member's Contributory Staff Service after 5 April 1978.

- (b) In the application of this Rule to any Member who has, for any period of his Contributory Staff Service between the 1962 Operative Date and 1 January 1969, paid Ordinary Contributions on the basis of his Normal Salary less £100 (formerly known as "**Scheme Salary**"), the formula set out in paragraph (a) of this Rule shall be amended to:

$$\left(\frac{n}{60} \times ARS\right) - \left(\frac{Ex}{60}\right) - \left(\frac{S}{60} \times £100\right)$$

where

s represents such period of such Member's Contributory Staff Service during which he has contributed on the basis of his Normal Salary less £100.

- (c) In the application of this Rule to any Member who has, for any period of his Contributory Staff Service prior to the 1962 Operative Date, subscribed to the Pilkington Fund or to the Chance Fund at a rate lower than that which would have attracted the maximum contributions by the Firm on his behalf, his pension calculated in accordance with paragraph (a) or (b) of this Rule in respect of such period of his Contributory Staff Service shall be multiplied by the following fraction:

$$\frac{c}{m}$$

where

c represents the actual rate at which he contributed.

m represents the rate which would have attracted the maximum contributions by the Firm on his behalf.

## 21. **NORMAL PENSION IN RESPECT OF ADDITIONAL CONTRIBUTIONS**

- (a) The normal pension in respect of the Additional Contributions of an Active Member who retires after 31 December 1968 on attaining the Normal Retiring Age shall be an annual amount produced by adding together the amounts calculated according to whichever is appropriate of the following formulae for each period of his Contributory Staff Service during which he paid Additional Contributions at a rate which remained unchanged:

Formula appropriate for Additional Contributions paid before 1 January 1969:

$$\frac{n}{60} \times ARS \times \frac{r}{12}$$

Formula appropriate for Additional Contributions paid after 31 December 1968 and before 1 January 1994:

$$\left[ \frac{(n \times ARS) - \pounds x}{60} \right] \times \frac{r}{14}$$

Formula appropriate to Additional Contributions paid after 31 December 1993 and before 1 January 2003:

$$\left[ \frac{(n \times ARS) - \pounds x}{(1.21 \times 60)} \right] \times \frac{r}{14}$$

Formula appropriate to Additional Contributions paid after 31 December 2002 and before 1 February 2004:

$$\left[ \frac{(n \times ARS) - \pounds x}{(1.39 \times 60)} \right] \times \frac{r}{14}$$

Formula appropriate to Additional Contributions paid after 31 January 2004 and before 1 January 2011:

$$\frac{n}{(1.39 \times 60)} \times \pounds(ARS - \pounds x) \times \frac{r}{14}$$

Formula appropriate to Additional Contributions paid after 31 December 2010 and before 1 January 2014:

$$\frac{n}{(1.5 \times 60)} \times (ARS - \pounds x) \times \frac{r}{14}$$

Formula appropriate to Additional Contributions paid after 31 December 2013:

$$\frac{n}{(1.19 \times 60)} \times (ARS - \pounds x) \times \frac{r}{14}$$

where

r represents the percentage rate of Additional Contribution, not including any rate of Additional Contribution in respect of which the Member gave notice under paragraph (a) of Rule 11 that it should be invested by the Trustee with an Insurance Company

n represents the number of years for which each formula is appropriate during which such Member contributed at that rate. In respect of any period during which a Member is employed on a part-time basis, "n" shall be adjusted in accordance with the following formula:

$$n \times \text{PTH/FTH}$$

where

PTH represents the number of hours the Member was contracted to work each week during that period in which he was employed on a part time basis as determined by the Firm;

FTH represents the number of hours the Member would have been contracted to work, as determined by the Firm, if he had been employed in equivalent work on a full time basis during that period;

ARS represents such Member's Average Retiring Salary calculated in accordance with Rule 19.

In respect of any particular period of the Member's Contributory Staff Service before 1 February 2004 during which Additional Contributions were paid, £x represents the sum of the disregards calculated each year on 1 January and 1 July in accordance with paragraph (d) of Rule 10 during the Member's relevant period of Contributory Staff Service. Where the Member's relevant period of Contributory Staff Service does not coincide with the dates on which the disregard is calculated, the first and/or the last disregard (as appropriate) to be included in the calculation of £x will be adjusted on a proportionate basis to reflect the period during which that level of disregard applied to the Member under paragraph (d) of Rule 10.

In respect of any period of the Member's Contributory Staff Service on or after 1 February 2004 £x represents the disregard figure defined as £Z in Rule 20(a)(ii), (iii) or (iv) (as appropriate) and which would be used under that Rule to calculate the Member's normal pension in respect of Ordinary Contributions for the same period.

- (b) Notwithstanding anything contained in Rule 71 (Amendments) and in Clause 20 (*Amendments*) of the Trust Deed the Trustee shall have power, without having to obtain the sanction of a resolution passed at a meeting by three-fourths of the Active Members present and voting to make such modifications as the Actuary shall from time to time certify to be desirable in the figure of 60 appearing for the denominator in the fraction of the formula in paragraph (a) of this Rule. Provided that the Trustee shall not have power, without such sanction, to substitute a lower figure than 60 for such denominator, and provided that any such modification as the Trustee are hereby empowered to make shall only take effect from, and shall only apply to Additional Contributions made after, 31 December next following the giving by the Trustee of notice in writing of such modification to the Active Members.

## 22. **EARLY RETIREMENT PENSION**

- (a) An immediate but reduced pension shall be payable to an Active Member who retires having attained Minimum Retirement Age, upon condition that the consent of the Firm has been obtained to any retirement before the 60th birthday of the Member and upon condition that in the case of any retirement the consent of such Member has been obtained. In respect of the Ordinary Contributions of such Member such reduced pension shall be calculated in accordance with Rule 20 and the appropriate formulae therein, and in respect of the Additional Contributions (if any) of such Member such reduced pension shall be calculated in accordance with Rule 21 and the appropriate formulae therein, except that:
- (i) for Contributory Staff Service up to 1 February 2004, in the application to such Member of either such Rule, for the denominator of 60 appearing in the fractions of any such formulae there shall be substituted the

denominator appropriate to his age at retirement, in accordance with the following tables:

**Table for Contributory Staff Service up to 31 August 1997**

| <b>Age at Retirement</b> | <b>Appropriate Denominator</b> |
|--------------------------|--------------------------------|
| 65                       | 60                             |
| 64                       | 60                             |
| 63                       | 60                             |
| 62                       | 62                             |
| 61                       | 63                             |
| 60                       | 65                             |
| 59                       | 67                             |
| 58                       | 68                             |
| 57                       | 70                             |
| 56                       | 71                             |
| 55                       | 73                             |
| 54                       | 74                             |
| 53                       | 75                             |
| 52                       | 77                             |
| 51                       | 79                             |
| 50                       | 81                             |

**Table for Contributory Staff Service on and from 31 August 1997 and before 1 February 2004**

| <b>Age at Retirement</b> | <b>Appropriate Denominator</b> |
|--------------------------|--------------------------------|
| 65                       | 60                             |
| 64                       | 60                             |
| 63                       | 60                             |
| 62                       | 62                             |
| 61                       | 63                             |
| 60                       | 65                             |
| 59                       | 69                             |
| 58                       | 73                             |
| 57                       | 76                             |
| 56                       | 79                             |
| 55                       | 82                             |
| 54                       | 85                             |
| 53                       | 88                             |
| 52                       | 91                             |
| 51                       | 94                             |
| 50                       | 97                             |

- (ii) for Contributory Staff Service on or after 1 February 2004 until 31 December 2008, in the application to such Member of either such Rule, for the denominator of 60 appearing in the fractions of any such formulae there shall be substituted the denominator appropriate to his age at retirement, in accordance with the table below or such other table as may, without requiring formal amendment of this paragraph of this Rule, from time to time be notified to the Trustee by the Actuary as being appropriate to produce an annual rate of pension which is actuarially equal to (but not

greater than) the Paid-up Pension or Deferred Pension (as appropriate) to which the Member would alternatively be entitled to at age 63:

| <b>Age at Retirement</b> | <b>Appropriate Denominator</b> |
|--------------------------|--------------------------------|
| 65                       | 60                             |
| 64                       | 60                             |
| 63                       | 60                             |
| 62                       | 63                             |
| 61                       | 67                             |
| 60                       | 70                             |
| 59                       | 74                             |
| 58                       | 78                             |
| 57                       | 83                             |
| 56                       | 87                             |
| 55                       | 92                             |
| 54                       | 97                             |
| 53                       | 102                            |
| 52                       | 108                            |
| 51                       | 114                            |
| 50                       | 120                            |

- (iii) in respect of a Higher Accrual Member's Contributory Staff Service on or after 1 January 2009, in the application to such Member of either such Rule, for the denominator of 60 appearing in the fractions of any such formulae there shall be substituted the denominator appropriate to his age at retirement, in accordance with the table below or such other table as may, without requiring formal amendment of this paragraph of this Rule, from time to time be notified to the Trustee by the Actuary as being appropriate to produce an annual rate of pension which is actuarially equal to (but not greater than) the Paid-up Pension or Deferred Pension (as appropriate) to which the Member would alternatively be entitled to at age 63:

| <b>Age at Retirement</b> | <b>Appropriate Denominator</b> |
|--------------------------|--------------------------------|
| 65                       | 60                             |
| 64                       | 60                             |
| 63                       | 60                             |
| 62                       | 63                             |
| 61                       | 67                             |
| 60                       | 70                             |
| 59                       | 74                             |
| 58                       | 78                             |
| 57                       | 83                             |
| 56                       | 87                             |
| 55                       | 92                             |
| 54                       | 97                             |
| 53                       | 102                            |
| 52                       | 108                            |
| 51                       | 114                            |
| 50                       | 120                            |

- (iv) in respect of a Lower Accrual Member's Contributory Staff Service on or after 1 January 2009, in the application to such Member of either such

Rule, for the denominator of 80 appearing in the fractions of any such formulae there shall be substituted the denominator appropriate to his age at retirement, in accordance with the table below or such other table as may, without requiring formal amendment of this paragraph of this Rule, from time to time be notified to the Trustee by the Actuary as being appropriate to produce an annual rate of pension which is actuarially equal to (but not greater than) the Paid-up Pension or Deferred Pension (as appropriate) to which the Member would alternatively be entitled to at age 63:

| <b>Age at Retirement</b> | <b>Appropriate Denominator</b> |
|--------------------------|--------------------------------|
| 65                       | 80                             |
| 64                       | 80                             |
| 63                       | 80                             |
| 62                       | 84                             |
| 61                       | 89                             |
| 60                       | 94                             |
| 59                       | 99                             |
| 58                       | 104                            |
| 57                       | 110                            |
| 56                       | 116                            |
| 55                       | 123                            |
| 54                       | 130                            |
| 53                       | 137                            |
| 52                       | 144                            |
| 51                       | 152                            |
| 50                       | 160                            |

Provided that if a Member retires otherwise than on his birthday the appropriate denominator shall be one between those applicable to his last and next birthdays.

- (b) Rule 47 will apply to any Member, who qualifies for an immediate but reduced pension under paragraph (a) of this Rule, if he does not elect to take that pension within one month of leaving the Firm's employment or such longer period as the Trustee may permit.
- (c) No paragraph.
- (d) On attaining GMP Pensionable Age, the pension in respect of Ordinary Contributions paid under paragraph (a) of this Rule to a Member who retires before Normal Retiring Age, shall be increased by an amount equal to the difference between the Guaranteed Minimum Pension accrued up to the date of his retirement and the Guaranteed Minimum Pension payable at GMP Pensionable Age, calculated under the provisions of Schedule 3, provided that any increases in pension given pursuant to Clause 19 on the amount of pension equal to the Guaranteed Minimum Pension accrued up to the date of his retirement between that date and the date he reached GMP Pensionable Age shall be deducted from any increase determined under this paragraph.
- (e) An Active Member who has attained Minimum Retirement Age but has not reached Normal Retiring Age may choose to cease to accrue further benefits under the Scheme in order to elect to receive an immediate but reduced pension under Rule 22 while remaining in employment with the Firm, provided that a Member who has not reached his 60<sup>th</sup> birthday must obtain the consent of the

Firm. Pensions payable under this Rule 22(e) shall be calculated in accordance with the preceding provisions of this Rule 22 except that nothing in this Rule shall require the Member to have left employment with the Firm.<sup>27</sup>

23. **ILL-HEALTH**

(a) This paragraph (a) takes effect as of and from 15 March 2005. Ill-health means a Member's inability, because of physical or mental impairment, to follow his normal employment or such alternative employment (if any) with the Firm as the Firm can identify at the time of the Member's application for pension under this Rule. An Active Member who retires due to Ill-health, with the consent or at the request of the Firm, whose continuous service with the Firm together with, where applicable, his Non-Contributory Staff Service and Credit Years amounts to five years or more shall if:

- (i) the Trustee is satisfied on production to it of such evidence as it may require that his retirement was due to Ill-health;
- (ii) the Trustee has received evidence from a registered medical practitioner that the Member is (and will continue to be) incapable of carrying on the Member's occupation with the Firm because of physical or mental impairment; and
- (iii) the "ill-health condition" as defined in paragraph 1 of Schedule 28 to the Finance Act 2004 is satisfied,

be entitled to be paid as from the date of his actual retirement the pension (if any) calculated in accordance with the provisions of paragraphs (b) and (c) of this Rule.

(b) The pension payable to such a Member under paragraph (a) of this Rule in respect of his Ordinary Contributions shall be:

- (i) if he is aged 60 or more an amount equal to the pension in respect of his Ordinary Contributions which would have been payable to him if he had continued to be employed on the staff of the Firm until the Normal Retiring Age contributing on the same basis as at the date of his actual retirement, and as if the highest Normal Salary payable to him during any of the three years preceding his actual retirement had been continued until the Normal Retiring Age; or
- (ii) if he is under 60 years a pension in respect of his Ordinary Contributions based on his Contributory Staff Service at the date of his actual retirement and calculated in accordance with Rule 20 and the appropriate formulae therein.

(c) The pension payable to such a Member under paragraph (a) of this Rule in respect of his Additional Contributions (if any) shall be calculated in accordance with Rule 21 and the appropriate formulae therein except that in the application of Rule 21 to such Member for the denominator of 60 appearing in the fraction of any such formulae there shall be substituted the denominator appropriate to his age at retirement in accordance with the appropriate table or tables set out in paragraph (a) of Rule 22.

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<sup>27</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

Provided that:

- (i) if a Member retires otherwise than on his birthday the appropriate denominator shall be one between those applicable to his last and next birthdays;
- (ii) if a Member retires before he is aged 50, the pension payable in respect of his Additional Contributions shall be what the Actuary certifies to be appropriate;
- (iii) in respect of Contributory Staff Service on or after 1 February 2004 the reduction shall be by reference to the factor from time to time determined under Rule 22(a)(ii), (iii) or (iv) as appropriate.

**24. COMMUTATION OF PENSION**

- (a) Subject to paragraphs (d) and (e) of this Rule, when a Member's pension comes into payment in accordance with the Rules, the Member shall have the right to exercise an option to receive a lump sum, in lieu of and by commuting such amount of pension as he shall indicate, provided that<sup>28</sup>:
  - (i) such lump sum must satisfy the requirements of a pension commencement lump sum for the purposes of Schedule 29 to the Finance Act 2004;
  - (ii) shall in no event exceed such amount of pension as the Trustee shall in its discretion from time to time direct; and
  - (iii) the commutation shall not reduce his pension from the Scheme below the Guaranteed Minimum Pension certified by the Secretary of State for Work and Pensions as being due to him at GMP Pensionable Age in respect of his membership of the Scheme or his Qualifying Service.

The option to commute shall not extend to:

- (1) pension in respect of Additional Contributions if the Member was not paying Additional Contributions before 7 April 1987;
  - (2) PEPS Benefits.
- (b) A Member who exercises the option under paragraph (a) of this Rule shall receive a lump sum payment, calculated as "c" times the amount of his annual pension so commuted and shall have his annual pension reduced by 1/cth of the lump sum he elects to receive, where "c" shall be a number certified by the Actuary as appropriate to the Member's age being not less than 9 for a Member at or after Normal Retiring Age.
  - (c) The option arising under this Rule shall be deemed to arise on, and the exercise of such option shall be deemed to take effect as from, the day on which the Member commences to receive his pension.
  - (d) The option arising under this Rule in respect of any Member shall be exercised by that Member by the delivery (within a period of not more than one month before or

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<sup>28</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.



after the date on which his pension commences or such longer period as the Trustee may allow) to the Secretary of such a notice in writing as the Trustee may from time to time prescribe. If any Member shall have failed within that period, for any reason other than his death, so to serve a notice, he shall be deemed to have decided not to exercise the said option, and all such rights as that Member may have had under this Rule shall thereupon cease and be of no further effect.

- (e) If a Member's pension comes into payment in accordance with the Rules, and that Member dies within one month of his pension commencing without having exercised or expressly declined to exercise the option arising under paragraph (a) of this Rule, he shall be deemed to have decided to exercise the option, and there shall be paid to his personal representatives such a lump sum as would have been paid to such Member had he, on the date on which his pension commenced, delivered to the Secretary a notice under paragraph (d) of this Rule exercising an option to commute the maximum amount of pension allowable under paragraph (a) of this Rule.<sup>29</sup>
- (f) No paragraph.
- (g) No paragraph.

**25. ADDED YEARS OF SERVICE**

- (a) The Trustee may accept any sum of money which an Active Member may, within one year of his becoming an Active Member by joining the staff of the Firm, procure to be made to the Fund from a Personal Pension Scheme or from the superannuation or pension scheme or fund of his previous employer, upon terms that:
  - (i) such part of the sum of money transferred to the Fund as represents the contributions of the previous employer shall be deemed to be contributions of the Firm; and
  - (ii) such part of the sum of money transferred to the Fund as represents the contributions of the Member himself shall be refundable in accordance with paragraph (a) of Rule 48 (Refund of Contributions), as if they were Additional Contributions made on the date of their receipt by the Trustee.
- (b) Upon the Trustee accepting any such sum of money after 31 December 1968 such Member's Contributory Staff Service shall be deemed to be increased, for the purposes of calculating such Member's pension under whichever is appropriate of Rules 20 (Normal Pension payable in respect of Ordinary Contributions), 22 (Early Retirement Pension), 23 (Ill-Health), 36 (Late Retirement Pension), or 37 (Total Incapacity) and except in the case of:
  - (i) a female who became a Member before 8 November 1982; and
  - (ii) anyone becoming a Member before 10 February 1992 who elects to the contrary by notice in writing to that effect to the Secretary at the date of such acceptance,

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<sup>29</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

for the purposes of calculating his Spouse's or Named Dependant's Pension under Rule 41 (Pensions for Spouses, Named Dependents and Dependent Children on Active Member's Death before Retirement) or paragraph (a) of Rule 43 (Spouse's and Named Dependant's Pension on death of a Pensioner) or paragraph (g) of Rule 52 (Former Members in Pilkington Group employment) (but not for the purpose of calculating the Dependent Children's pensions under Rule 41 or Rule 43 or paragraph (g) of Rule 52) by a period expressed in years including, if appropriate, fractions of a year, to the extent of complete months only, certified by the Actuary to be appropriate.

- (c) If such Member retires on account of Ill-health or Total Incapacity his Contributory Staff Service shall not be deemed to be increased by his Added Years for the purpose of ascertaining whether he qualifies for pension under Rule 23 or Rule 37, but if he so qualifies by reason of the length of his Contributory Staff Service without such Added Years, then, for the purpose of calculating his pension under such Rules, his Contributory Staff Service shall be deemed to be increased by his Added Years as provided in paragraph (b) of this Rule.
- (d) No paragraph.
- (e) Upon the application to such a Member of Rule 50 (Transfer to another pension scheme or insurance policy), for the purpose of calculating the amount to be transferred to another pension scheme or attributed by the Trustee to the purchase of a policy, the appropriate percentage of such Member's Ordinary Contributions shall be determined by reference to his length of Contributory Staff Service without the addition thereto of his Added Years.
- (f) Any Member in respect of whom the Trustee has accepted any such sum as is referred to in paragraph (a) of this Rule before 1 January 1969, whose pension was increased in fixed money terms by an amount certified by the Actuary to be appropriate to the sum transferred in under the Rules then in force, shall have the option, to be exercised by notice in writing to the Secretary before 31 December 1971, in lieu of such increased pension and other benefits, of having his Contributory Staff Service increased, for the purposes stipulated in paragraph (b) of this Rule, by such number of Added Years as the Actuary shall certify to be appropriate. Paragraphs (c) and (e) of this Rule shall apply to any such Member so opting.
- (g) Any Member to whom the provisions of paragraph (f) of this Rule apply who fails or expressly declines to exercise the option granted to him under that paragraph shall, as from 1 January 1969, have the fixed money value by which his pension was increased raised by 22 per cent thereof.

#### **SECTION V – No RULES 26 TO 35 INCLUSIVE**

#### **SECTION VI – PENSION PROVISIONS APPLICABLE TO SECTION IV**

#### **36. LATE RETIREMENT PENSION**

- (a) Where an Active Member remains in employment with the Firm after Normal Retiring Age, he will, unless paragraph (b) applies, continue in Contributory Staff Service and his pension will be calculated on the date he ceases to be in Contributory Staff Service in accordance with the formulae set out in Rule 20 by

reference to his length of Contributory Staff Service, Average Retiring Salary and the appropriate disregard at that date.

- (b) Where a Member, who remains in employment with the Firm after Normal Retiring Age, opts out of Contributory Staff Service by giving notice in accordance with Rule 8 expiring on or after Normal Retiring Age, he will become a Postponed Pensioner and will be entitled to an annual pension payable from the date on which he ceases to be in employment with the Firm (a "**Postponed Pension**"). This Postponed Pension will be calculated in accordance with the formulae set out in Rule 20 by reference to his length of Contributory Staff Service, Average Retiring Salary and the appropriate disregard on the date on which he ceased to be in Contributory Staff Service increased in accordance with paragraph (c).
- (c) The period of such deferment, if over three months, shall be increased if necessary to arrive at an exact number of completed calendar months, and such Postponed Pensioner's Postponed Pension shall be increased by the percentage thereof appropriate to the completed calendar months of deferment set out in the following table, or determined by interpolation therein:

| <b>Months of deferment</b> | <b>Percentage increase</b> |
|----------------------------|----------------------------|
| 3                          | 2                          |
| 6                          | 4                          |
| 12                         | 8                          |
| 24                         | 16                         |
| 36                         | 26                         |
| 48                         | 36                         |
| 60                         | 47                         |
| 72                         | 59                         |

Provided that if such Postponed Pensioner's retirement shall be deferred for a period exceeding 72 completed calendar months, the percentage by which his Postponed Pension shall be increased shall be determined by the Actuary.

- (d) An Active Member who dies in Contributory Staff Service on or after Normal Retiring Age will be entitled to death benefits calculated in accordance with Rules 38 and 41.
- (e) A Member who dies in employment with the Firm after Normal Retiring Age, having opted-out of Contributory Staff Service on or after Normal Retiring Age, will be entitled to death benefits calculated in accordance with Rules 24(e), 39 and 43 as though he had retired from the Firm and his Postponed Pension had come into payment on the day immediately preceding his death.
- (f) A Postponed Pensioner may elect to put his pension into payment at any time, before leaving the Firm's employment, in which case the period of deferment referred to in sub-paragraph (c) above shall terminate on the date the pension comes into payment.<sup>30</sup>

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<sup>30</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

37. **TOTAL INCAPACITY**

- (a) This paragraph (a) takes effect as of and from 15 March 2005. Total Incapacity means that:
- (i) the Trustee is satisfied on production to it of such evidence and opinions as it may require concerning the Member's current condition and future prognosis that the Member is highly likely to be permanently unable to sustain any regular and meaningful employment and therefore regular and meaningful income whether in the service of the Firm or any other employer or in a self-employed capacity;
  - (ii) the Trustee has received evidence (whether or not the same evidence as it is relying on in (i) above) from a registered medical practitioner that the Member is (and will continue to be) incapable of carrying on the Member's occupation with the Firm because of physical or mental impairment; and
  - (iii) the "ill-health condition" as defined in paragraph 1 of Schedule 28 to the Finance Act 2004 is satisfied.

The decision of the Trustee as to whether a Member is or is not obliged to retire or to remain in retirement on account of Total Incapacity shall be final and conclusive, and in order to enable it to arrive at decisions on such questions such Member shall furnish it with such evidence and submit to such medical examinations as it may from time to time require.

- (b) An Active Member who retires on account of Total Incapacity either after completing not less than five years of Contributory Staff Service or whose Contributory Staff Service together with, where applicable, his Non-Contributory Staff Service and Credit Years amount to five years or more shall be entitled to receive, as from the date of his actual retirement, a pension of an amount equal to the pension in respect of his Ordinary Contributions which would have been payable to him if he had continued to be employed on the staff of the Firm until the Normal Retiring Age, contributing on the same basis as at the date of his actual retirement, and as if the highest Normal Salary payable to him during any of the three years preceding his actual retirement had been continued until the Normal Retiring Age.
- (c) An Active Member who retires on account of Total Incapacity either after completing not less than five years of Contributory Staff Service, or whose Contributory Staff Service together with, where applicable, his Non-Contributory Staff Service and Credit Years amounts to five years or more and who has paid Additional Contributions, shall be entitled in respect thereof to receive, as from the date of his actual retirement, an additional pension calculated as if he had reached Normal Retiring Age at the date of his actual retirement, in the manner provided by Rule 21 (Normal Pension in respect of Additional Contributions).
- (d) If a Member shall suffer Total Incapacity while engaged on National Service (as defined in Rule 9), or as a result of a war injury or war service injury (as defined in the Personal Injuries (Emergency Provisions) Act 1939), the Trustee may, at its absolute discretion, refuse to apply the foregoing provisions of this Rule, and pay a pension of such amount as it shall determine.

- (e) The Trustee shall annually review the cases of all persons under the Normal Retiring Age in receipt of pension under the foregoing provisions of this Rule, and if satisfied that any such person no longer suffers Total Incapacity may, at its absolute discretion, continue to pay such pension notwithstanding that such person no longer suffers Total Incapacity, or pay a reduced pension of such amount and from such age, not later than the Normal Retiring Age, as it shall determine, provided that such reduced pension shall not be less than the pension to which such person would otherwise have been entitled hereunder had he retired at the same age as he retired on account of Total Incapacity, but on account of some other reason, including on account of ill-health, in circumstances which the Trustee considers appropriate.

#### **SECTION VII – BENEFITS ON DEATH**

#### **38. LUMP SUM DEATH BENEFIT BEFORE RETIREMENT**

- (a) In respect of any Active Member who dies on or after the PEPS Merger Date and before retiring on pension without leaving:
  - (i) a Spouse entitled on his death to a Spouse's Pension under Rule 41; or
  - (ii) a Dependent Child or Dependent Children in respect of whom a child allowance is payable under paragraph (e) of Rule 41; or
  - (iii) a Named Dependant to whom a pension is awarded under paragraph (f) of Rule 41,

in addition to any lump sum payment payable under paragraphs (c) or (d) of this Rule there shall be paid either (i) a lump sum payment equal to three and one-half times the Member's Normal Salary inclusive of the lump sum payment under paragraph (f) of this Rule, or (ii) an amount equal 1/12th of the Member's Normal Salary at the date of his death multiplied by the number of years of his Contributory Staff Service (excluding Added Years if any) whichever shall be the greater.

- (b) In respect of any Active Member who dies on or after the PEPS Merger Date and before retiring on pension, leaving:
  - (i) a Spouse entitled on his death to a Spouse's Pension under Rule 41; or
  - (ii) a Dependent Child or Dependent Children in respect of whom a pension is payable under paragraph (e) of Rule 41; or
  - (iii) a Named Dependant to whom a pension is awarded under paragraph (f) of Rule 41,

in addition to such Spouse's Pension or child's pension or any such pension awarded to a Named Dependant and to any lump sum payment under paragraph (c) or (e) of this Rule a lump sum payment shall also be made of an amount equal to three and one-half times the Member's Normal Salary inclusive of the lump sum payment under paragraph (f) of this Rule. Provided that if the aggregate payments of such Spouse's Pension (excluding such part thereof if any as is attributable to Added Years) and such child allowance or allowances made in respect of such Member under paragraph (e) of Rule 41 and such pension awarded to a Named Dependant, shall, when all such payments cease, be less

when added to the lump sum payment made in respect of the Member under this paragraph, than the lump sum payment which would have been paid under paragraph (a) of this Rule in respect of such Member, had that paragraph applied to him then the deficiency shall be payable as a lump sum.

(c) In addition to any death benefit payable in respect of an Active Member under whichever is appropriate of paragraphs (a) or (b) of this Rule, there shall also be paid in either case a sum equal to:

- (i) all Additional Contributions paid by the Member under Rule 11(a)(i);
- (ii) all sums transferred in respect of the Member to the Fund from any other pension fund or scheme of the Firm or of any previous employer in respect of which the Member's pension entitlement upon retirement was increased in fixed money terms by an amount certified by the Actuary to be appropriate to the sum transferred and all such sums in respect of which the Member's Contributory Staff Service has been deemed to be increased by Added Years if, under paragraph (b) of Rule 25, such Added Years were not taken into account for the purpose of calculating his Spouse's Pension; and
- (iii) such sum as may be paid to the Trustee by an Insurance Company in respect of Additional Contributions made by the Member under Rule 11(a)(ii),

together in each case with simple interest thereon at the rate of four per cent per annum calculated in accordance with Rule 66 up to the date of death.

(d) In addition, for an Active Member who dies without leaving a Spouse entitled to a Spouse's Pension under Rule 41 or a Named Dependant to whom a pension is awarded under paragraph (f) of Rule 41, there shall also be paid the whole of any sum which he may have procured to be transferred to the Fund in respect of which his Contributory Staff Service was deemed to be increased by Added Years, in accordance with Rule 25, for the purposes of calculating both his pension entitlement upon retirement and the Spouse's Pension payable on his death together with simple interest thereon at the rate of four per cent per annum calculated, in accordance with Rule 66, up to the date of death.

(e) In addition, for an Active Member who dies leaving a Spouse entitled to a Spouse's Pension under Rule 41 or a Named Dependant to whom a pension is awarded under paragraph (f) of Rule 41, there shall also be paid one half of any sum (with simple interest thereon at the rate of four per cent per annum calculated, in accordance with Rule 66, up to the date of death) which he may have procured to be transferred to the Fund in respect of which his Contributory Staff Service was deemed to be increased by Added Years, in accordance with Rule 25, for the purposes of calculating both his pension entitlement upon retirement and the Spouse's Pension payable on his death. Provided that if such Spouse's Pension ceases, on account of the death of the Spouse, before the aggregate payments to the Spouse of such Spouse's Pension attributable to such Added Years, together with one half of such sum, (with interest thereon) equal or exceed the whole of such sum, then such difference as there may be shall be payable as a lump sum.

(f) In addition for an Active Member there shall be paid a lump sum of £1,500.

- (g) Any death benefit arising under this Rule, including such benefit as there might be under the provisos in paragraphs (b) and (e) of this Rule, shall be dealt with as provided under Rule 40 (Disposal of lump sum death benefit).

**39. LUMP SUM DEATH BENEFIT ON DEATH OF A PENSIONER**

- (a) Upon the death of a Pensioner who became a Member before 1 February 1976 a lump sum death benefit shall be paid equal to six months' pension at the rate being paid to the Pensioner in respect of his Ordinary Contributions immediately before his death. Provided that if he has surrendered a percentage of his pension to provide an annuity for his Spouse or Dependant, the death benefit shall be equal to six months' pension at the rate which he would have been paid immediately before his death had he not made such surrender.
- (b) If any Pensioner dies within five years from the date of commencement of payment of his pension, but not otherwise, an additional lump sum death benefit shall be paid out of the Fund calculated under paragraph (c) of this Rule. The Trustee may, at its absolute discretion, pay such additional lump sum by equal instalments over the remainder of such period of five years from the date of commencement of payment of the pension to the Pensioner to a Spouse or Dependant of the Member provided that such pensions would be authorised payments for the purposes of the Finance Act 2004.
- (c) Under this paragraph the death benefit shall be a sum equal to the total amount of pension (including any pension attributable to Added Years, unless the Pensioner elected in pursuance of paragraph (b) of Rule 25 that such Added Years should not be taken into account for the purpose of calculating his Spouse's Pension) from both:
  - (i) Ordinary Contributions; and
  - (ii) in the case of a PEPS Member, PEPS Benefits

to which the Pensioner, if he had survived, would have been entitled (calculated on the basis set out in paragraph (g) of this Rule) from the date of his death until the expiration of the period of five years from the date of commencement of payment of the pension to the Pensioner.

- (d) No paragraph.
- (e) If any Pensioner has procured a transfer to the Fund:
  - (i) from the Pilkington Brothers Limited Workmen's Pension Fund or from the Voluntary Scheme, or from any other fund or scheme, in respect of which his pension has been increased in fixed money terms by an amount certified by the Actuary to be appropriate to the sum transferred in; or
  - (ii) in respect of which the Pensioner's Contributory Staff Service is deemed to be increased by Added Years for the purpose of calculating such Pensioner's pension, but pursuant to his election under paragraph (b) of Rule 25, not for the purpose of calculating his Spouse's Pension,

and such Pensioner dies within five years from the date of the commencement of the payment of his pension, but not otherwise, a further additional lump sum death

benefit shall be paid out of the Fund equal to the total amount of pension attributable to:

- (iii) such increase certified by the Actuary, if any; or
- (iv) such Added Years, if any,

to which the Pensioner, if he had survived, would have been entitled (calculated on the basis set out in paragraph (g) of this Rule) from the date of his death until the expiration of the period of five years from the date of commencement of payment of the pension to the Pensioner.

(f) If any Pensioner:

- (i) has paid Additional Contributions; or
- (ii) has had a sum transferred into the Fund in respect of him from the Pilkington Brothers Staff Widows' Fund,

and dies within ten years from the date of commencement of payment of his pension, but not otherwise, a further additional lump sum death benefit shall be paid out of the Fund, representing the total amount of pension from:

- (iii) such Additional Contributions, if any, and
- (iv) such sum transferred into the Fund, if any, to which the Pensioner, if he had survived, would have been entitled (calculated on the basis set out in paragraph (g) of this Rule) from the date of his death until the expiration of the period of ten years from the date of commencement of payment of the pension to the Pensioner.

The Trustee may, at its absolute discretion, pay such further additional lump sum by equal instalments over the remainder of such period of ten years from the date of commencement of payment of pension to the Pensioner to a Spouse or Dependant of the Pensioner provided that such pensions would be authorised payments for the purposes of the Finance Act 2004.

(g) For the purpose of the calculations of death benefit under paragraphs (c), (e) and (f) of this Rule the Pensioner's pension shall be calculated at the rate at which he was entitled at the date of death without taking into account:

- (i) any adjustment thereof made at the request of the Pensioner under Rule 58 (Adjustments with State pensions) on account of his having retired before he was entitled to a State Pension;
- (ii) any surrender thereof which he elected to make under Rule 44 (Annuities for Spouses or Dependents) in order to provide an annuity for his Spouse or a Dependant;

but after taking into account, in the case of a Pensioner who retired after 31 December 1968, any commutation which he elected to make under Rule 24 (Commutation of pension).

(h) Any death benefit arising under this Rule shall be dealt with under Rule 40 (Disposal of lump sum death benefit).



40. **DISPOSAL OF LUMP SUM DEATH BENEFIT**

- (a) No paragraph.
- (b) Any lump sum death benefit shall be dealt with in accordance with the following provisions of this Rule.
- (c) The Trustee shall have power, at its absolute discretion, to pay or apply the whole or any part or parts of any such death benefit to or for all or any of the members of the class specified in paragraph (d) of this Rule, and if and to the extent that such power is not exercised within twenty-four months from the date on which the Trustee became aware (or could reasonably have been expected to become aware) of the death of the Member or Pensioner, the Trustee shall hold such death benefit in trust for the personal representatives of the Member or Pensioner.
- (d) The class specified in this paragraph in respect of any Member or Pensioner shall consist of that Member or Pensioner's relatives and dependants and any other person, body (whether having charitable status or not) or club who or which the Trustee considers to be appropriate in all the circumstances for this purpose; and the term "relatives" shall mean the Spouse of the Member or Pensioner and his children and remoter issue living at the date of the Member or Pensioner's death and the spouses of any such children and remoter issue, and any other person living at the date of the Member or Pensioner's death who is a lineal descendant of a grandparent of such Member or Pensioner (or the spouse of such descendant) or a lineal descendant of a grandparent of such Member or Pensioner's Spouse (or the spouse of such descendant); and the term "dependants" for the purpose of this Rule 40 shall mean any persons (whether or not relatives as aforesaid) who were, in the opinion of the Trustee (whose decision shall be final and binding), dependent upon such Member or Pensioner, either wholly or partly, for the general necessities of life at the date of the Member or Pensioner's death.
- (e) In connection with the application of any part of the death benefit under paragraph (c) of this Rule, the Trustee shall have power to declare trusts and to constitute trustees thereof, and to delegate powers and discretions to such trustees and to pay or transfer the same to the trustee or trustees of a trust for the benefit of any beneficiary or beneficiaries selected by the Trustee under paragraph (c) of this Rule and to delegate powers and discretions to such trustee or trustees.
- (f) The Trustee, in considering whether and in what manner it shall exercise the power conferred on it by paragraph (c) of this Rule, shall be entitled but in no way bound to have regard to any declaration deposited by the Member or Pensioner with the Secretary as to the person or persons or body or club he would wish to receive the death benefit, and the extent to which and manner in which such person or persons respectively should have rights therein. Provided that any such declaration shall be in writing and signed by such Member or Pensioner but may at any time be revoked or varied by notice in writing signed by such Member or Pensioner and given to the Secretary.

**41. PENSIONS FOR SPOUSES, NAMED DEPENDANTS AND DEPENDENT CHILDREN ON ACTIVE MEMBER'S DEATH BEFORE RETIREMENT**

- (a) On the death of an Active Member before retiring on pension, his Spouse shall, subject to paragraph (b) of this Rule, be entitled under this paragraph to a Spouse's Pension until his or her death.

Subject to paragraphs (b) and (c) of this Rule such Spouse's Pension shall be half the Prospective Pension of such Member as defined in paragraph (d) of this Rule. Such Spouse's Pension shall be payable from the first day of the month immediately following the month in which the Member died.

- (b) The Trustee shall have power, in its absolute discretion, to withhold all or part of the Spouse's Pension which would otherwise have become payable under paragraph (a) of this Rule (provided that the Trustee first receives confirmation from the Actuary that the exercise of this discretion will not affect the Scheme's contracted-out status), in any of the following circumstances:

- (i) where the Spouse had been married to, or in a Civil Partnership with, the deceased Member for a period of less than three years;
- (ii) where the deceased Member died before completing three years' continuous service in the Pilkington Group;
- (iii) where for a period of more than five years the Spouse of the deceased Member had been living apart from the deceased Member and was not at any time within the five years immediately preceding the Member's death receiving financial support from him; or
- (iv) where the deceased Member has a Named Dependant.

- (c) If there was more than ten years' difference in age between the Member and the Spouse, the amount of the Spouse's Pension payable under paragraph (a) or paragraph (b) of this Rule shall be:

- (i) if the Member was older than his Spouse, reduced by one per cent for each complete year of such difference in age in excess of ten years; and
- (ii) if the Member was younger than his Spouse, increased by one per cent for each complete year of such difference in age in excess of ten years.

- (d) For the purposes of this Rule, any Member's Prospective Pension shall mean the pension which such Member would have received under Rule 20 in respect of his Ordinary Contributions if his Contributory Staff Service and his Salary at the date of his death had continued until the Normal Retiring Age provided that if he had been transferred due to illness or incapacity within three years of his death to a post carrying a lower rate of Salary, then the Salary immediately before such transfer, if greater than his Salary at death, shall be regarded as continued until Normal Retiring Age.

- (e) Where an Active Member dies before retiring on pension leaving one or more Dependent Children, each such Dependent Child shall be entitled to a pension equal to one eighth of such Member's Prospective Pension as defined in paragraph (d) of this Rule provided that such pensions shall not be payable in respect of more than four Dependent Children at any one time, and also provided

that when the eldest child in respect of whom a pension is being paid ceases to be a Dependent Child, the pension shall be paid for the benefit of the next eldest Dependent Child, if any, in respect of whom no pension is being paid or if there is no such Dependent Child the pension shall cease. Such pension shall be payable from the first day of the month immediately following the month in which such Member died and shall be paid by the Trustee to the Dependent Child or as the Trustee at its discretion decides in accordance with Rule 65.

Should no Spouse's Pension or Named Dependant's Pension be payable on the death of the Member, the Trustee shall have absolute discretion to increase the pension payable for the benefit of each such Dependent Child above one-eighth (but in no event above one-quarter) of the Member's Prospective Pension. Similarly should any person in receipt of a Spouse's Pension or Named Dependant's Pension die whilst pensions are payable for the benefit of such Dependent Children the Trustee may at its absolute discretion increase such pensions (but in no event to more than twice the amount of the pension being paid on the date of the Spouse's or Named Dependant's death) from the first day of the month immediately following such Spouse's or Named Dependant's death.

- (f) On the death of an Active Member before retiring on pension the Trustee may at its discretion award such Member's Named Dependant, if any, as defined in and subject to paragraph (g) of this Rule, a pension until death. The amount of such pension shall be at the discretion of the Trustee but shall not, in any case, exceed the amount of pension which would have been payable under paragraph (a) of this Rule to the Spouse of a Member had such Spouse been the same age as the Named Dependant and had such Member been the same age and entitled to the same Prospective Pension as the Member who died leaving a Named Dependant. In any such case in which a Spouse's Pension is payable because it is not withheld by the Trustee under sub-paragraph (iv) of paragraph (b) of this Rule the total of the Spouse's Pension and the pension payable to the Named Dependant shall not together exceed half the Prospective Pension of the Member adjusted, if applicable, under paragraph (c) of this Rule.
- (g) In relation to any Member, a Named Dependant shall mean:
- (i) any person being a Dependant (other than a Dependant who is also a Spouse or Dependent Child of such Member) of such Member identified by such Member in a declaration made and deposited by such Member with the Secretary. Such declaration shall be in writing and signed by such Member but may, at any time, be revoked or altered by notice in writing signed by such Member and given to the Secretary and shall be automatically revoked by the marriage, or Civil Partnership, of such Member or by the Named Dependant dying or ceasing to be a Dependant of such Member; or
  - (ii) where no declaration has been made, any other person being a Dependant (other than a Dependant who is also a Spouse or Dependent Child of such a Member) of such Member chosen by the Trustee at its absolute discretion.<sup>31</sup>

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<sup>31</sup> Amendment made by deed of amendment allowing the Trustee to choose a Named Dependant dated 20 June 2017 with effect on and from 20 June 2017.

- (h) In no case shall the Spouse's Pension payable under this Rule be less than £52 per annum.
- (i) The previous paragraphs of this Rule are subject to the provisions of Rule 79 and, in particular, where no pension would otherwise be payable under this Rule but where Rule 79 requires a pension to be paid to a Member's Spouse such pension shall be paid to such person as and for so long as is required by law.

42. **NO RULE**

43. **PENSIONS FOR SPOUSES, NAMED DEPENDANTS AND DEPENDENT CHILDREN ON DEATH OF A PENSIONER**

- (a) Subject to paragraphs (f) and (g) of this Rule if a Pensioner dies leaving a surviving Spouse to whom he was married, or with whom he has a Civil Partnership, at the date of his retirement, such Spouse shall be entitled under this paragraph to a Spouse's Pension until his or her death. Subject to paragraphs (j) and (l) of this Rule such Spouse's Pension shall be half the Notional Pension of such Pensioner as defined in paragraph (i) of this Rule. Such Spouse's Pension shall be payable from the first day of the month immediately following the month in which the Pensioner died except that in the case of a Pensioner whose Spouse is awarded a Spouse's Pension by the Trustee under paragraph (f) of this Rule, it shall be payable from the first day of the month immediately following the expiration of the period of five years from the date of commencement of payment of his pension.
- (b) No paragraph.
- (c) No paragraph.
- (d) No paragraph.
- (e) No paragraph.
- (f) If a Pensioner dies within three years of his marriage or Civil Partnership, the Trustee may award to his Spouse all or part of the Spouse's Pension which would otherwise have become payable under paragraph (a) of this Rule.
- (g) The Trustee shall have power, in its absolute discretion, to withhold all or part of the Spouse's Pension which would otherwise have become payable under paragraph (a) of this Rule (provided that the Trustee first receives confirmation from the Actuary that the exercise of this discretion will not affect the Scheme's contracted-out status) in either of the following circumstances:
  - (i) where, for a period of more than five years the Spouse of the deceased Pensioner has been living apart from the deceased Pensioner and was not at any time within the five years immediately preceding the Pensioner's death receiving financial support from him; or
  - (ii) where the Pensioner has a Named Dependant.
- (h) If a Pensioner dies, leaving a surviving Spouse who is not entitled to a Spouse's Pension under paragraph (a) of this Rule because such Spouse was not married to, or in a Civil Partnership with, the Pensioner at the date of his retirement, the Trustee shall have power (notwithstanding that such Pensioner may also have

died within three years of his marriage or Civil Partnership) in its absolute discretion to award such spouse a Spouse's Pension under paragraph (a) of this Rule.

- (i) For the purpose of this Rule any such Pensioner's Notional Pension shall mean the pension to which such Pensioner would have been entitled immediately before his death in respect of his Ordinary Contributions. For the purposes of calculating the pension to which he would have been so entitled any commutation under Rule 24, for this purpose adding back in an allowance reflecting any increases to pensions in payment (so far as allowance for such increases has not already been made) which would have applied to that part of the Pensioner's pension commuted at retirement and any surrender under Rule 44 (Annuities for Spouses or Dependants) and any adjustments in pension under Rule 58 (Adjustments with State pensions) which such Pensioner elected or requested to be made shall be ignored in order to ascertain the pension to which such Pensioner was entitled, immediately before his death, in respect of his Ordinary Contributions referred to in paragraph (a) of this Rule.
- (j) If there was more than ten years' difference in age between the Pensioner and his Spouse such difference in age in excess of ten years shall be calculated in units of four calendar months and the Spouse's Pension payable under paragraph (a) of this Rule shall be:
  - (i) if the Pensioner was older than his Spouse, reduced by one per cent for each complete unit of such excess; and
  - (ii) if the Pensioner was younger than his Spouse, increased by one per cent for each complete unit of such excess.
- (k) Where a Pensioner dies leaving one or more Dependent Children, each such Dependent Child shall be entitled to a pension equal to one-eighth of such Pensioner's Notional Pension as defined in paragraph (i) of this Rule. Provided that such pensions shall not be payable in respect of more than four Dependent Children at any one time, and also provided that where the eldest child in respect of whom a pension is being paid ceases to be a Dependent Child, the pension shall be paid for the benefit of the next eldest Dependent Child, if any, in respect of whom no pension is being paid or if there is no such Dependent Child the pension shall cease. Such pension shall be payable from the first day of the month immediately following the month in which such Pensioner died and shall be paid by the Trustee to the Dependent Child or as the Trustee at its discretion decides in accordance with Rule 65.

Should no Spouse's Pension or Named Dependant's Pension be payable on the death of the Pensioner the Trustee shall have absolute discretion to increase the pension payable for the benefit of each such Dependent Child above one-eighth (but in no event above one-quarter) of the Pensioner's Notional Pension. Similarly should any person in receipt of the Spouse's Pension or Named Dependant's Pension die whilst pensions are payable for the benefit of such Dependent Children the Trustee may at its absolute discretion increase such pensions (but in no event to more than twice the amount of the pension being paid on the date of the Spouse's or Named Dependant's death) from the first day of the month immediately following such Spouse's or Named Dependant's death.

- (l) On the death of a Pensioner the Trustee may at its discretion award such Pensioner's Named Dependant, if any, as defined in and subject to paragraph (m) of this Rule a pension until death. The amount of such pension shall be at the discretion of the Trustee and shall not in any case exceed the amount of pension which would have been payable under paragraph (a) of this Rule to the Spouse of a Pensioner had such Spouse been the same age as the Named Dependant and had such Pensioner been the same age and entitled to the same Notional Pension as the Pensioner who died leaving a Named Dependant. In any such case in which a Spouse's Pension is payable because it is not withheld by the Trustee under sub-paragraph (ii) of paragraph (g) of this Rule, the total of the Spouse's Pension and the pension payable to the Named Dependant shall not together exceed half the Notional Pension of such Pensioner adjusted, if applicable, under paragraph (j) of this Rule.
- (m) In relation to any Pensioner, a Named Dependant shall mean:
- (i) any person being a Dependant (other than a person who is also a Spouse or Dependent Child of such Pensioner) of such Pensioner identified by such Pensioner in a declaration made and deposited by such Pensioner with the Secretary. Such declaration shall be in writing and signed by such Pensioner but may, at any time, be revoked or altered by notice in writing signed by such Pensioner and given to the Secretary and shall be automatically revoked by the marriage, or Civil Partnership, of such Pensioner or by the Named Dependant dying or ceasing to be a Dependant of such Pensioner; or
  - (ii) where no declaration has been made, any other person being a Dependant (other than a Dependant who is also a Spouse or Dependent Child of such Pensioner) of such Pensioner chosen by the Trustee at its absolute discretion.<sup>32</sup>
- (n) In no case shall the Spouse's Pension payable under this Rule be less than £52 per annum.
- (o) The previous paragraphs of this Rule are subject to the provisions of Rule 79 and, in particular, where no pension would otherwise be payable under this Rule but where Rule 79 requires a pension to be paid to a Pensioner's Spouse such pension shall be paid to such person, of such amount and for so long as is required by law.
- (p) No paragraph.
- (q) No paragraph.
- (r) No paragraph.

#### 44. **ANNUITIES FOR SPOUSES OR DEPENDANTS**

- (a) A Member who has attained the Minimum Retirement Age shall have an option, before he retires, by surrendering a percentage of his pension, before taking account of any sums commuted under Rule 24 (Commutation of pension) or any adjustment under Rule 58 (Adjustments with State pensions), either

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<sup>32</sup> Amendment made by deed of amendment allowing the Trustee to choose a Named Dependant dated 20 June 2017 with effect on and from 20 June 2017.

- (i) to provide an annuity for his Spouse to supplement the Spouse's Pension to which she may become entitled under Rule 43, or
- (ii) to provide an annuity for a Dependant (other than his Spouse), or for his Spouse, where such Spouse might not be entitled as of right to a Spouse's Pension.

A Member who has Contributory Staff Service after 5 April 1978 shall not, in any circumstances, exercise the option conferred upon him by this paragraph of this Rule so as to reduce his pension below his Guaranteed Minimum Pension.

- (b) Such option shall be exercisable by notice in writing deposited by such Member with the Secretary stating (subject to paragraph (d)(i) of this Rule) the percentage of pension to be surrendered, but may at any time before such Member retires be varied or revoked by like notice.
- (c) Any such option shall be automatically revoked by the happening, before such Member retires, of any of the following events:
  - (i) the death of such Member;
  - (ii) the termination, otherwise than by retirement on pension, of such Member's employment on the Staff of the Firm;
  - (iii) the marriage, or Civil Partnership, of such Member;
  - (iv) the dissolution or annulment of the marriage, or Civil Partnership, of such Member, who has exercised an option in favour of his Spouse;
  - (v) the death of such Member's Spouse, in whose favour he has exercised an option;
  - (vi) the nominated Dependant of such Member dying or ceasing to be a Dependant.
- (d) Notwithstanding paragraph (b) of this Rule the percentage of pension to be surrendered by a Member to provide an annuity for his Spouse to supplement the Spouse's Pension to which she may become entitled under Rule 43 may be either or both of:
  - (i) seven per cent of so much of the Member's pension as is attributable to his Ordinary Contributions, but, if his Spouse is more than ten years younger than him, either that percentage (referred to in this Rule as the "**Appropriate Percentage**") of his pension as above which, according to Table I in the Appendix to the Rules, is appropriate, having regard to the difference in age between such Member and his Spouse, to purchase the annuity specified in subparagraph (i) of paragraph (e) of this Rule, or any intermediate percentage between seven per cent and the Appropriate Percentage;
  - (ii) such percentage of so much of the Member's Pension as is attributable to his Additional Contributions as the Member shall choose, not being less than ten per cent, nor more than that percentage which would provide for his Spouse an annuity equal to the amount of the Member's pension

attributable to his Additional Contributions reduced by the percentage thereof surrendered.

- (e) The Spouse of such Member, in favour of whom he has exercised an option subsisting at the date of his retirement, upon surviving him without having ceased prior to his death to be his Spouse, shall be entitled to be paid for life:
  - (i) in respect of a surrender under paragraph (d)(i) of this Rule of either seven per cent or of the Appropriate Percentage, an annuity as from his death equal to the difference between the Spouse's Pension to which she may become entitled under Rule 43 and two-thirds of the pension to which the Member was entitled, immediately before his death in respect of his Ordinary Contributions, on the basis set out in paragraph (i) of Rule 43;
  - (ii) in respect of a surrender under paragraph (d)(i) of this Rule of an intermediate percentage between seven per cent and the Appropriate Percentage, an annuity as from his death of such amount as the Actuary shall certify to be appropriate;
  - (iii) in respect of a surrender under paragraph (d)(ii) of a percentage of so much of the Member's Pension as is attributable to his Additional Contributions, an annuity as from whichever is the later of his death or the expiration of ten years from the date of commencement of payment of his pension calculated in accordance with Table II set out in the Appendix to the Rules, or in any case to which that Table does not apply, certified by the Actuary to be appropriate.
- (f) Such Member shall be free to choose the percentage of pension to be surrendered to provide for a Dependant (including for his Spouse, where she might not be entitled as of right to a Spouse's pension as mentioned in paragraph (a)(ii) of this Rule) but such percentage shall not:
  - (i) be less than ten per cent of his pension, or
  - (ii) be more than that percentage which would provide for the Dependant or Spouse, an annuity equal to the amount of such Member's pension reduced by the percentage thereof surrendered.

Provided that in the application of this paragraph (as regards a Dependant who is not a Spouse) to a Member who retires on pension on account of Total Incapacity, any reference herein to his pension shall be replaced by so much of his pension as is equal to the pension to which he would have been entitled under Rule 22 (Early Retirement Pension), if he had retired at the same age otherwise than on account of Total Incapacity.

- (g) The Dependant or Spouse of such a Member, in favour of whom he has exercised an option under paragraph (f) of this Rule subsisting at the date of his retirement, upon surviving him without having ceased before his death to be such Member's Dependant or Spouse, shall be entitled, as from whichever is the later of his death or the expiration of a period of five years from the date of commencement of payment of his pension, to be paid for life an annuity of an amount calculated in accordance with Table III set out in the Appendix to the Rules or in any case to which that Table does not apply, certified by the Actuary to be appropriate.



45. **NO RULE**

46. **NO RULE**

### **SECTION VIII – WITHDRAWAL RIGHTS**

47. **BENEFITS ON WITHDRAWAL**

(a) If an Active Member shall cease to be employed by the Firm otherwise than by reason of:

- (i) death or retirement on pension, in accordance with the Rules, or
- (ii) the happening to him of one of the events specified in paragraph (b) of Rule 52 (Former Members in Group employment) before he attains the Normal Retiring Age,

then he shall cease to be an Active Member, and, he shall become a Paid-up Pensioner under Rule 51, unless he chooses to exercise his rights under Rule 48 (Refund of contributions) or Rule 50 (Transfer to another pension scheme or insurance policy), subject to his fulfilling any qualifications stipulated therein.

(b) In respect of any Member who, upon ceasing to be an Active Member under this Rule, is not entitled under the Rules of the Scheme by reason of his age to immediate payment of a pension and has completed less than two years' Qualifying Service, the Trustee shall have power to pay out of the Fund in respect of such Member a Contributions Equivalent Premium in order to extinguish the Scheme's liability to such Member and his Spouse for unextinguished accrued Contracted-out Rights in respect of his membership of the Scheme or his Qualifying Service. Provided that a Contributions Equivalent Premium shall not be paid if any sum has been transferred to the Scheme in respect of the Member from a Personal Pension Scheme.

(c) If an Active Member ceases to be employed by the Firm, because of the sale by the Firm of a part or the whole of its assets or business and is immediately thereafter employed by the purchaser of the assets or business, the Trustee shall have power to ask the Actuary to have regard to the portion of the Fund which is attributable to the Member when certifying under Rule 50 any payment as appropriate for transfer to the trustees of the purchaser's pension fund.

48. **REFUND OF CONTRIBUTIONS**

(a) Under this Rule a Member who has ceased to be an Active Member shall, provided he has completed less than two years' Qualifying Service and no transfer has been received in respect of him from a Personal Pension Scheme, be entitled, two months after ceasing to be an Active Member under Rule 47, to be paid subject to the provisions of Rule 67 (Income Tax) an amount equal to the total of his Ordinary Contributions and, if any, his Additional Contributions (inclusive as described in paragraph (c) of this Rule) with interest on such total as provided for in paragraph (d) of this Rule. Provided that such payment shall be subject to the deduction therefrom of an amount equivalent to the amount by which the Class 1 primary contributions (within the meaning of that term as used in section 41 Pension Schemes Act 1993) payable by the Member during his active membership of the Scheme after 5 April 1978 have fallen short of the Class 1 primary contributions which would have been payable by him had he not been in

contracted-out employment. Provided further that the Member does not opt within three months of ceasing to be an Active Member to take a cash transfer sum in accordance with section 101AB of the Pension Schemes Act 1993 or to receive a Paid-up Pension in accordance with Rule 51.

- (b) A Member who opts to take a cash transfer sum in accordance with section 101AB of the Pension Schemes Act 1993 shall be entitled to a transfer payment under Rule 50 calculated in accordance with The Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contributions Refunds) Regulations 2006.
- (c) For the purposes of paragraph (a) of this Rule, Additional Contributions shall include such part of any sum, transferred to the Fund under Rule 25 or Rule 55, in respect of the Member, as represented the contributions of the Member himself and shall include any sum transferred to the Fund under Rule 57 (representing the surrender value of his contributions to the Pilkington Brothers Staff Widows' Fund).
- (d) Interest on the total of Ordinary and Additional Contributions, if any, shall be simple interest at four per cent per annum calculated in accordance with Rule 66 (Calculation of interest) up to the date of payment. Provided that if such Active Member's employment is terminated on account of redundancy, the interest payable under this Rule shall be four per cent compound.
- (e) No paragraph.
- (f) Upon the Trustee paying to a Member an amount calculated under paragraph (a) or paragraph (b) of this Rule, the Trustee shall thereupon be discharged from all further liability to or in respect of such Member, who shall have, and in respect of whom there shall be, no further claim under or interest in the Scheme.
- (g) No paragraph.

49. **No RULE**

49A **No RULE**

**TABLE FOR PURPOSES OF RULE 50(D)**

| Years of Contributory Staff Service including where applicable Non-Contributory Staff Service and Credit Years | AGE LAST BIRTHDAY YEARS |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |           |
|--|-------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----------|
|  | 24 & under              | 26  | 27  | 28  | 29  | 30  | 31  | 32  | 33  | 34  | 35  | 36  | 37  | 38  | 39  | 40  | 41  | 42  | 43  | 44  | 45 & over |
|  | %                       | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %   | %         |
| 1 to 2 and under   | 100                     | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100       |
| 2 to 3   | 100                     | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 110 | 110 | 110 | 110 | 110 | 110 | 110 | 110 | 120 | 130 | 140 | 150       |
| 3 to 4   | 100                     | 100 | 100 | 100 | 100 | 100 | 110 | 110 | 110 | 110 | 110 | 120 | 120 | 120 | 120 | 120 | 120 | 140 | 160 | 180 | 200       |
| 4 to 5   | 100                     | 100 | 100 | 100 | 110 | 110 | 110 | 110 | 120 | 120 | 120 | 130 | 130 | 130 | 130 | 140 | 140 | 160 | 180 | 200 | 200       |
| 5 to 6   | 100                     | 100 | 110 | 110 | 110 | 110 | 120 | 120 | 120 | 120 | 130 | 140 | 140 | 140 | 140 | 150 | 160 | 180 | 200 | 200 | 200       |
| 6 to 7   | 100                     | 110 | 110 | 110 | 120 | 120 | 120 | 130 | 130 | 130 | 140 | 150 | 150 | 150 | 160 | 170 | 180 | 200 | 200 | 200 | 200       |
| 7 to 8   | 110                     | 110 | 110 | 120 | 120 | 120 | 130 | 140 | 140 | 140 | 140 | 160 | 160 | 160 | 170 | 170 | 190 | 200 | 200 | 200 | 200       |
| 8 to 9   |                         | 110 | 120 | 120 | 130 | 130 | 140 | 150 | 160 | 160 | 170 | 180 | 180 | 190 | 190 | 200 | 200 | 200 | 200 | 200 | 200       |
| 9 to 10  |                         |     | 120 | 130 | 130 | 140 | 150 | 160 | 170 | 180 | 190 | 190 | 190 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 10 to 11   |                         |     |     | 130 | 140 | 150 | 160 | 170 | 180 | 190 | 190 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 11 to 12   |                         |     |     |     | 150 | 160 | 170 | 180 | 190 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 12 to 13   |                         |     |     |     |     | 170 | 180 | 190 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 13 to 14   |                         |     |     |     |     |     | 190 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 14 to 15   |                         |     |     |     |     |     |     | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |
| 15 and over  |                         |     |     |     |     |     |     |     | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200       |

50. **TRANSFER TO ANOTHER PENSION SCHEME OR INSURANCE POLICY**

- (a) Under this Rule a Member who, having ceased to be an Active Member under Rule 47, becomes a member of or contributor to any other Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme shall be entitled to have paid to the trustees of that other pension scheme, scheme or arrangement the amount specified in paragraph (c) below, provided that such transfer would be a recognised transfer for the purposes of section 169 of the Finance Act 2004.

If the Trustee is required to make a transfer payment from the Fund in respect of an individual but:

- (i) section 48 of the Pension Schemes Act 2015 and related regulations require the Trustee to check that the individual has received appropriate independent advice before making the transfer payment; and
- (ii) the Trustee is unable to carry out that check for reasons outside its control, or has carried out the check but the check did not confirm that the individual had received appropriate independent advice,

then the Trustee will not be required to make the transfer payment.<sup>33</sup>

- (b) If a Member does not exercise the option available under paragraph (a) of this Rule, he may instead require the Trustee to purchase in his name or in the Trustee's name as nominee for him from an Insurance Company a policy by which there shall be secured an annuity, provided that the purchase of such policy would constitute a recognised transfer for the purposes of the Finance Act 2004. If upon ceasing to be an Active Member under Rule 47 the Scheme's liability to such Member and his Spouse for accrued Contracted-out Rights has not been extinguished by the payment of a Contributions Equivalent Premium such policy shall secure such Contracted-out Rights for and in respect of such Member.
- (c) The amount to be transferred in respect of a Member under paragraph (a) or attributed by the Trustee to the purchase of such policy under paragraph (b) shall be such amount as the Actuary certifies as the Cash Equivalent. Provided always that in respect of a Member who became a Member on or before 31 December 1985 the amount made available by the Trustee shall not be less than the sum of:
- (i) the appropriate percentage stated in paragraph (d) of this Rule of such Member's Ordinary Contributions,
- (ii) his Additional Contributions, if any,
- (iii) the payment, if any, under Rule 25 (Added Years of service) which such Member had procured to be made to the Trustee from the superannuation or pension scheme or fund of his previous employer, or under the provisions of Rule 55 (Transfers in from the Workmen's Basic or Voluntary Pension Funds) or Rule 57 (Transfers in from Staff Widow's Fund), and
- (iv) the payment, if any, made by the Firm in respect of such Member (under paragraph (b) of Clause 8 of the Trust Deed),

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<sup>33</sup> Amended by a resolution amending Rule 50 (Transfer to another pension scheme or insurance policy) dated 3 September 2015 with effect on and from 3 September 2015

with simple interest thereon at five per cent per annum calculated in accordance with Rule 66 (Calculation of interest) up to the date of the transfer or the purchase of such policy, subject to the deduction therefrom of any Contributions Equivalent Premium which the Trustee may elect to pay in order to extinguish the Scheme's liability to such Member and his Spouse for unextinguished accrued Contracted-out Rights in respect of his membership of the Scheme or his Qualifying Service and any Ordinary or Additional Contributions (including such sums transferred to the Fund under Rule 25, Rule 55 or Rule 57) paid prior to 6 April 1975 and in respect of which the Member has previously elected to have a cash refund.

- (d) The appropriate percentage referred to in paragraph (c) of this Rule of such Member's Ordinary Contributions shall be determined by reference to such Member's age and to his length of Contributory Staff Service at the date of termination of his Contributory Staff Service together with, at the discretion of the Trustee, his Non-Contributory Staff Service and Credit Years in accordance with the table on page 73.
- (e) Upon the Trustee making a payment under the provisions of this Rule to the trustees of any such other pension scheme or to an Insurance Company, the Trustee shall subject to any remaining Contracted-out Rights under the Scheme thereupon be discharged from all further liability to or in respect of such Member, who shall have, and in respect of whom there shall be, no further claim under or interest in the Scheme.
- (f) Notwithstanding paragraphs (a) to (c) above, with effect from 25 September 2013 a Member who has ceased to pay Additional Contributions under Rule 11(a)(ii) may request the Trustee to transfer any rights he holds under the Scheme in respect of Additional Contributions paid under Rule 11(a)(ii) to another Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme or to use such rights to purchase an annuity from an Insurance Company, provided that such transfer or purchase would be a recognised transfer for the purposes of section 169 of the Finance Act 2004. The Trustee may, but need not, agree to such request.

**51. PAID-UP PENSIONS**

- (a) Subject to Rules 52 and 53 an Active Member upon ceasing to be an Active Member shall thereupon become a Paid-up Pensioner entitled to a Paid-up Pension and, where appropriate, to the other benefits specified in this Rule.
- (b) The Paid-up Pension of a Paid-up Pensioner shall be calculated in accordance with such of Rules 20 to 22 inclusive as are appropriate to an Active Member having the same length of Contributory Staff Service and Added Years as the Paid-up Pensioner had at the date of his ceasing to be an Active Member, who had made the same Ordinary Contributions and Additional Contributions throughout such service as were made by the Paid-up Pensioner and who retires at the age of the Paid-up Pensioner at the date upon which the Paid-up Pension commences to be paid except that in any case where a refund of contributions has been made under the provisions of paragraph (b) of Rule 48 of the Old Consolidated Deed and Rules the reference to Contributory Staff Service shall exclude Contributory Staff Service prior to 6 April 1975 in respect of which such refund of contributions was made.

- (c) No paragraph.
- (d) The Paid-up Pension of a Paid-up Pensioner shall become payable as from the attainment of Normal Retiring Age or at his option from such earlier age as he would have been entitled under Rule 22, had he still been an Active Member, to be paid an immediate pension in accordance with the Rules. Excepting the Member's Guaranteed Minimum Pension, the Paid-up Pension of a Paid-up Pensioner shall, when it becomes payable, be increased by the Revaluation Percentage. If the Paid-up Pension is paid before the Normal Retiring Age the Paid-up Pension shall be reduced for early payment as if it had been paid pursuant to Rule 22 and then increased by the Revaluation Percentage. The Revaluation Percentage shall be that which would be applicable if the date of the payment were the Normal Retiring Age.<sup>34</sup>

Notwithstanding the first sentence hereof, the Trustee shall have the discretion on the production to it of such medical evidence as it may require that the Paid-up Pensioner is suffering ill-health or total incapacity, to commence payment of the Paid-up Pension (reduced as the Actuary may certify as appropriate) before the Paid-up Pensioner attains his Minimum Retirement Age.

- (e) Rule 24 (Commutation of pension), Rule 39 (Lump sum death benefit payable on death of a Pensioner), Rule 40 (Disposal of lump sum death benefit), Rule 43 (Spouse's and Named Dependant's Pension on the death of a Pensioner), and Rule 44 (Annuities for Spouses or Dependents) shall be applicable to a Paid-up Pensioner, who shall have and in respect of whom there shall arise the same rights under those Rules as a Member or Pensioner (as the case may be) shall have or as arise in respect of him, except that in the application to a Paid-up Pensioner of any such Rule, for each of the words "Member" and "Pensioner" appearing in such Rule there shall be substituted except as the tenth word in paragraph (a) of Rule 39 the words "Paid-up Pensioner" and for each word "Pension" there shall be substituted "Paid-up Pension" and for the words "being paid to the Pensioner" in paragraph (a) of Rule 39 there shall be substituted the words "to which the Paid-up Pensioner is entitled" and for the words "which he would have been paid" in paragraph (a) of Rule 39 there shall be substituted the words "to which he would have been entitled".
- (f) In the event of a Paid-up Pensioner dying before his Paid-up Pension has come into payment, a lump sum death benefit shall be paid consisting of the total of his Ordinary Contributions, Additional Contributions, and such parts of any sums transferred in respect of the Paid-up Pensioner to the Fund whilst he was an Active Member from another scheme or fund, whether of the Firm or another employer, as represent contributions originally made by him together with simple interest thereon at the rate of four per cent per annum calculated in accordance with Rule 66 up to the date of death. Any such death benefit shall be dealt with in accordance with the provisions of Rule 40 (Disposal of lump sum death benefit).
- (g) In the event of a Paid-up Pensioner dying before his Paid-up Pension commences to be paid leaving a Spouse surviving him, such Spouse shall be entitled to a Spouse's Pension from the Scheme of an amount equal to half the normal pension in respect of the Paid-up Pensioner's Ordinary Contributions which would have been payable under paragraph (d) of this Rule had the Paid-up Pensioner

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<sup>34</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

retired on pension on the date of his death (whether before or after Minimum Retirement Age) disregarding any reduction that would have been applied to reflect early payment.

- (h) No paragraph.
- (i) The Trustee shall be entitled subject to compliance with the requirements of Rule 79 (Contracting-out) to pay to any one or more of the Named Dependants of the deceased Paid-up Pensioner the whole or any part of the Spouse's Pension payable under paragraph (g) of this Rule.

#### 51A **OPTED-OUT MEMBERS**

If a Member ceases to be an Active Member by virtue of a notice given to the Secretary under Rule 8 the following provisions shall apply:

- (a) he shall be deemed to become a Paid-up Pensioner from the date he ceases to be an Active Member;
- (b) he may, whilst employed in the Pilkington Group elect that such sum as the Actuary certifies to be appropriate having regard to the pension preserved as a result of his having Contributory Staff Service be paid to another pension scheme or Insurance Company, provided that such payment would be a recognised transfer for the purposes of the Finance Act 2004. In the case of a payment being made to an Insurance Company, the policy purchased must satisfy any relevant requirements prescribed by the Pensions Legislation. On the making of such a payment the Trustee shall be discharged from any further liability to or in respect of the Paid-up Pensioner pertaining to his having been a Member;
- (c) no paragraph;<sup>35</sup>
- (d) on his joining the Scheme again, the Trustee may at its discretion agree that his previous Contributory Staff Service (except to the extent that this has been reduced as a consequence of a payment made under (b) of this Rule) be aggregated with the Contributory Staff Service in respect of his new period of membership. Otherwise he shall remain a Paid-up Pensioner so far as that first period of membership is concerned;
- (e) for the avoidance of doubt, no person shall be readmitted to the Scheme after 30 September 2008.

#### 52. **FORMER MEMBERS IN PILKINGTON GROUP EMPLOYMENT**

- (a) If, before an Active Member attains the Normal Retiring Age, any one of the events specified in paragraph (b) of this Rule happens to him, he shall thereupon cease to be an Active Member and become a "**Former Member**" but nevertheless shall not be entitled to benefit under the provisions of Rule 47 (Benefits on withdrawal) so long as he continues to be employed within the Pilkington Group and subject to paragraph (d) or paragraph (e) of this Rule the appropriate provisions of this Rule subsequent to paragraph (e) shall apply to him.
- (b) In relation to any Active Member the events referred to in paragraph (a) of this Rule are as follows:

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<sup>35</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

- (i) no paragraph;
  - (ii) by reason of some change in his employment with the Pilkington Group he becomes eligible for and accepts membership of, or becomes a contributor to a superannuation scheme of the Pilkington Group administered outside the United Kingdom other than the Scheme;
  - (iii) no paragraph;
  - (iv) he ceases to be employed on the staff of the Firm but continues to be employed within the Pilkington Group;
  - (v) he has become eligible for and has accepted membership of or has become a contributor to a Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme established by the Company (for the avoidance of doubt this would exclude a group personal pension scheme) or an Allied Company as an alternative to and in substitution for membership of the Scheme and not as an addition to or supplement thereof;
  - (vi) by reason of some change in his employment within the Pilkington Group he becomes eligible for and accepted membership of, or becomes a contributor to a Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme established by a company, other than the Firm, within the Pilkington Group as an alternative to and in substitution for membership of the Scheme and not as an addition to or supplement thereof.
- (c) In respect of any Former Member who, upon ceasing to be an Active Member under this Rule is not entitled under the Rules of the Scheme by reason of his age to immediate payment of a pension and has completed less than two years' Qualifying Service, the Trustee shall have power to pay out of the Fund in respect of such Member a Contributions Equivalent Premium in order to extinguish the Scheme's liability to such Member and his Spouse for unextinguished accrued Contracted-out Rights in respect of his membership of the Scheme or his Qualifying Service.
- (d) Subject to the written consent of the Former Member and when required by the Contributions Office, if a Former Member becomes a member of a Qualifying Recognised Overseas Pension Scheme, the Trustee may transfer from the Fund to the administrator of the Qualifying Recognised Overseas Pension Scheme an Overseas Transfer Amount provided that such transfer would be a recognised transfer for the purposes of the Finance Act 2004. In making such a transfer, the Trustee may at its discretion:
- (i) require the administrators of the Qualifying Recognised Overseas Pension Scheme which is to receive the transfer to give undertakings as to the form in which benefits arising from the payment are to be paid;
  - (ii) withhold from the amount transferable such sum as is necessary to secure within the United Kingdom the Contracted-out Rights of the Member and his Spouse arising in respect of his membership of the Scheme, to the satisfaction of the Contributions Office;



- (iii) when not withholding any sum as under (ii) above require the Member's employer at the time of the proposed transfer to give an appropriate indemnity to the Trustee against any liability to pay Contracted-out Rights in the event of the Qualifying Recognised Overseas Pension Scheme failing to discharge any such liability.

On making a transfer payment the Trustee shall be discharged from any further liability to and or in respect of such Former Member except to the extent described in (ii) above.

In this Rule, "**Overseas Transfer Amount**" means an amount up to the actuarial reserve held by the Fund as may be certified by the Actuary as being necessary to purchase equivalent benefits (so far as these are obtainable) to the rights the Former Member has in the Scheme (ignoring for these purposes benefits payable in the event of the Member's death before retirement).

(e) The Trustee may:

- (i) in relation to an individual Former Member to whom either sub-paragraph (v) or (vi) of paragraph (b) of this Rule applies with his consent in writing (and, if a Contributions Equivalent Premium has not been paid in respect of him under paragraph (c) of this Rule with the consent of the Contributions Office) transfer from the Fund to the trustees of such Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme the actuarial reserve held in the Fund by the Trustee in respect of such individual Former Member. This amount shall not be less than the Member's Cash Equivalent;
- (ii) in relation to a group of Former Members who collectively form at the time of transfer the whole of a group or class of members for whom such Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme has been established (hereinafter referred to as the Transferring Members) to whom either subparagraph (v) or (vi) of paragraph (b) of this Rule applies (with the consent of the Contributions Office unless a Contributions Equivalent Premium has been paid in respect of any such Former Members) transfer from the Fund to the trustees of such Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme that portion of the Fund which the Actuary shall certify (in accordance with the requirements of this paragraph of this Rule) to be attributable to the Transferring Members.

Upon making such transfer to such Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme, the Trustee shall thereupon be discharged from all further liability to or in respect of such individual Former Member or, as the case may be, each of the Transferring Members who shall have, and in respect of whom there shall be no further claim under or interest in the Scheme, and thereupon the subsequent paragraphs of this Rule shall no longer apply to such individual Former Member or, as the case may be, any of the Transferring Members. Provided always that the Trustee shall remain liable to such individual Former Member and his Spouse or, as the case may be, to each of the Transferring Members and his Spouse for unextinguished accrued Contracted-out Rights in respect of his membership of the Scheme or his Qualifying Service unless the Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme is in relation to such individual Former

Member or, as the case may be, each of the Transferring Members, a Contracted-out Scheme and such liability has been transferred to the Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme. If the Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme is not in relation to such individual Former Member or such Transferring Member a Contracted-out Scheme or if such liability for unextinguished accrued Contracted-out Rights has not been transferred, the amount to be transferred to such Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme by the Trustee shall be reduced by such amount as the Actuary may certify as appropriate in respect of such continuing liability of the Trustee for such unextinguished accrued Contracted-out Rights.

- (f) If any Former Member who has ceased to be an Active Member under paragraph (a) of this Rule dies while he is still employed within the Pilkington Group, leaving a Spouse or Dependant to whom a pension is payable under the provisions of paragraph (g) of this Rule, there shall be paid a lump sum death benefit of an amount equal to his Ordinary Contributions with simple interest at four per cent per annum calculated in accordance with Rule 66 up to the date of death. When no pension is payable under the provisions of paragraph (g) of this Rule, the lump sum death benefit shall be the greatest of:
- (i) twice the Member's Ordinary Contributions,
  - (ii) 1/12th of the Member's Normal Salary multiplied by the number of years of his Contributory Staff Service, and
  - (iii) the Member's Normal Salary.

For the purposes of this Rule the Member's Normal Salary shall be the lesser of Normal Salary at the date he ceased to be a Member, increased by the application thereto of the Actuary's Valuation Salary Scale in force at that date by reference to his age when he ceased to be a Member and to his age at the date of his death, and his salary at death being expressed in sterling terms. In addition to the foregoing lump sum benefit the Former Member shall be entitled to benefit from whichever may be applicable of paragraphs (c), (d), or (e) of Rule 38.

- (g) Rule 41 (Pensions for Spouses, Named Dependents and Dependent Children on Active Member's death before retirement) with the exception of paragraph (d) thereof, shall be applicable to a Former Member who dies while he is still employed in the Pilkington Group and in respect of such a Former Member there shall arise the same rights under that Rule as arise in respect of an Active Member, except that, in the application of that Rule to such a Former Member, for each word "Member", except in the fourth line of subparagraph (i) of paragraph (b) of that Rule there shall be substituted the words "Former Member" and for each of the words "Prospective Pension" there shall be substituted the words "Prospective Deferred Pension" and for paragraph (d) thereof there shall be substituted paragraph (h) of this Rule.
- (h) For the purpose of applying Rule 41 to a Former Member who dies while he is still employed in the Pilkington Group, the Prospective Deferred Pension of such a Former Member shall be the Deferred Pension he would have received on retirement at the Normal Retiring Age, had his Average Retiring Salary been the highest annual salary, expressed in sterling, during any of the three years preceding his death in which he was contributing to the superannuation or pension

scheme or fund of which he was a Member immediately before his death. Provided that his Average Retiring Salary shall not exceed his Normal Salary as a Member at the date upon which he ceased to be an Active Member and became a Former Member under this Rule, increased by the application thereto of the Actuary's Valuation Salary Scale in force at that date by reference to his age when he ceased to be an Active Member and to his age at the date of his death.

- (i) Upon any such Former Member ceasing to be employed within the Pilkington Group he shall thereupon be entitled, in accordance with Rule 47 (Benefits on withdrawal) to benefit in the same way as an Active Member under the provision of Rules 48 to 51 inclusive. For the purposes of calculating the Former Member's Paid-up Pension, his Average Retiring Salary shall be increased by the application thereto of the Actuary's Valuation Salary Scale in force at the date when he ceased to be an Active Member by reference to his age at that time and his age on ceasing to be employed in the Pilkington Group. Provided that, in any application of any such Rule to any such Former Member, interest shall be calculated up to the date upon which he ceased to be employed within the Pilkington Group. Provided further that the Former Member's Paid-up Pension shall not be less than it would have been if he had become a Paid-up Pensioner on the day he became a Former Member for the purposes of Rule 52.
- (j) If any such Former Member, not having attained the Normal Retiring Age, has attained Minimum Retirement Age when he ceases to be employed within the Pilkington Group, in lieu of being entitled, in accordance with Rule 47, to benefits under Rules 48 to 51 inclusive, he may, (upon condition that the consent of the Firm is obtained if the Former Member is under the age of 60) be regarded as having retired and become a Deferred Pensioner entitled to a Deferred Pension calculated in accordance with the provisions of Rule 53. Such Deferred Pension shall become payable as from his ceasing to be employed within the Pilkington Group, but he may elect to postpone the payment thereof until he attains the Normal Retiring Age.
- (k) Rule 44 (Annuities for Spouses or Dependants) shall be applicable to a Former Member who has attained the Minimum Retirement Age and who shall, before he retires, have the same option as an Active Member to provide an annuity for his Spouse or a Dependant, by surrendering a percentage of his Deferred Pension, except that, in the application to such Former Member of such Rule for each of the words "Member" and "Pension" appearing in such Rule, there shall be substituted the words "Former Member" and "Deferred Pension" respectively.
- (l) Upon any such Former Member attaining the Normal Retiring Age while he continues to be employed within the Pilkington Group he shall become a Deferred Pensioner, entitled to a Deferred Pension calculated in accordance with the provisions of Rule 53.
- (m) If such a Former Member re-entered the Scheme before attaining the Normal Retiring Age, any pension, Spouse's Pension or other benefit to which he may become entitled, or which may be payable in respect of him, shall be calculated by combining and treating as one both the period of Contributory Staff Service before and the period of Contributory Staff Service after he ceased to be an Active Member in accordance with paragraph (a) of this Rule.
- (n) No Member shall become or remain a Former Member if this would cause the Scheme to become a "cross-border scheme" for the purposes of The

Occupational Pension Schemes (Cross-border Activities) Regulations 2005, in which case he shall be entitled to benefits in accordance with Rule 47.

- (o) All rights under this Rule, in the case of a Former Member in respect of whom a Contributions Equivalent Premium has been paid under paragraph (c) of this Rule, shall be subject to appropriate adjustment to allow for such payment.
- (p) In no circumstances shall the pension payable to, or in respect of, a Former Member under this Rule 52 be less than the pension that would have been payable if the Former Member had instead become a Paid-up Pensioner under Rule 51 when he ceased to be an Active Member in accordance with paragraph (a) of this Rule.

**53. DEFERRED PENSIONS**

- (a) The Deferred Pension of a Deferred Pensioner shall be calculated in accordance with such of Rules 20 to 23 inclusive, and Rule 37, as is appropriate to an Active Member having the same length of Contributory Staff Service as the Deferred Pensioner had at the date of his ceasing to be an Active Member under the provisions of paragraph (a) of Rule 52, who made the same Ordinary Contributions and Additional Contributions throughout such service as were made by the Deferred Pensioner, and who retires at the age of the Deferred Pensioner at the date upon which the Deferred Pension commences to be paid, and for the same reason. Provided that, for the purpose of applying such Rules to a Deferred Pensioner:
  - (i) the term Average Retiring Salary shall have the meaning assigned to it by paragraph (b) of this Rule;
  - (ii) under £Z in the formula in Rule 20(a)(ii), (iii) or (iv) (as appropriate), the average annual rate of the disregard shall be calculated over the actual period over which the Deferred Pensioner's Normal Salary is averaged under paragraph (c) of this Rule to calculate Average Retiring Salary;
  - (iii) in Rule 21(a), the reference to £x shall be to £Z calculated as in sub-paragraph (ii) of this Rule.

Provided further that the Deferred Pensioner's Deferred Pension shall not be less than the Paid-up Pension the Deferred Pensioner would have been entitled to if he had become a Paid-up Pensioner under Rule 51 on the day he became a Former Member for the purposes of Rule 52.

- (b) A Deferred Pensioner's Average Retiring Salary shall mean the average of the annual salary expressed in sterling, on which contributions to the superannuation or pension scheme or fund of which he was a member were based immediately before the earlier of his retirement from employment within the Pilkington Group and 30 April 2013 (except in circumstances where a Deferred Pensioner receives a Shift Allowance or any other allowance after 30 April 2013 which the Company agrees would have been taken into account prior to 1 May 2013 for the purposes of calculating a Deferred Pensioner's Average Retiring Salary, in which case that allowance shall be taken into account when calculating a Deferred Pensioner's Average Retiring Salary but only to the level of that allowance as at 30 April 2013), over whatever period of three consecutive years out of the last 10 years of his service immediately preceding his retirement provides the highest average.

Provided that his Average Retiring Salary shall not exceed his Normal Salary as a Member at the date upon which he ceased to be an Active Member under paragraph (a) of Rule 52, increased by the application thereto of the Actuary's Valuation Salary Scale in force at that date by reference to his age at that date and to his age on his birthday immediately preceding his becoming a Deferred Pensioner.

- (c) The Deferred Pension of a Deferred Pensioner shall become payable as from the date upon which he ceases to be employed by the Firm or within the Pilkington Group. Provided that:
  - (i) if on this date he is beyond the Normal Retiring Age the provisions of Rule 36 (Late retirement pension) shall apply to the Deferred Pensioner, and his Deferred Pension calculated at the Normal Retiring Age shall be increased thereunder, and
  - (ii) if on this date he has not attained the Normal Retiring Age he may postpone the payment of his Deferred Pension up to, but not beyond, his attaining that age. Such a Deferred Pensioner may, at any time before attaining the Normal Retiring Age, terminate such postponement of payment of Deferred Pension.
- (d) Rule 24 (Commutation of pension), Rule 39 (Lump sum death benefit payable on death of a Pensioner), Rule 40 (Disposal of lump sum death benefit) and Rule 43 (Spouse's and Named Dependant's Pension on the death of a Pensioner) shall be applicable to a Deferred Pensioner, who shall have, and in respect of whom there shall arise, the same rights under those Rules as a Member or Pensioner has, or as arise in respect of him, except that, in the application to a Deferred Pensioner of any such Rule, for each of the words "Pensioner" and "Pension" appearing in such Rules there shall be substituted the words "Deferred Pensioner" and "Deferred Pension" respectively, and in the third line of paragraph (a) of Rule 39 the words "being paid to the Pensioner" shall be replaced by the words "to which the Deferred Pensioner was entitled", and in the sixth line of that paragraph the words "which he would have been paid" shall be replaced by the words "to which he would have been entitled".
- (e) No paragraph.
- (f) If a Contributions Equivalent Premium has been paid in respect of a Deferred Pensioner under paragraph (c) of Rule 52 upon his having ceased to be an Active Member under that Rule, all rights of or in respect of such Deferred Pensioner under this Rule shall be subject to such adjustment as the Trustee may consider appropriate to allow for such payment and the proviso to paragraph (a) of Rule 20 shall not apply to such a Deferred Pensioner's Contributory Staff Service after 5 April 1978 in respect of which such payment was made.

**54. CLAIMING OF DEFERRED AND PAID-UP PENSIONS**

- (a) It shall be the duty of a Deferred Pensioner or a Paid-up Pensioner, or the personal representatives of either such, by notice in writing to the Secretary, to claim any pension or lump sum death benefit which is payable to him or them under the provisions of Rule 51 or Rule 53.

- (b) Any instalments payable to a Deferred Pensioner or a Paid-up Pensioner, or the personal representatives of either such, under Rule 51 or Rule 53, whether by way of pension or lump sum death benefit, which are not claimed within six years of 31 December next following the date on which each instalment becomes due, shall be forfeited.

**54A. TERMINATION OF EMPLOYMENT ON REDUNDANCY**

- (a) This Rule applies where an Active Member's employment with the Firm has been terminated due to redundancy. In this Rule, such a Member is referred to as a "**Redundant Employee**" and the date of termination of his employment is referred to as the "**Termination Date**".
- (b) The decision of the Firm as to whether the termination of employment of an Active Member is or is not due to redundancy shall be conclusive.
- (c) Subject to (d) below, Rule 47 (Benefits on withdrawal) applies to a Redundant Employee. Under Rule 47 the Redundant Employee may elect to:
  - (i) have his benefits transferred to another pension scheme or insurance policy under Rule 50; or
  - (ii) become a Paid-Up Pensioner under Rule 51.

Unless and until the Redundant Employee makes an election, he will be a Paid-up Pensioner under Rule 51.

- (d) If a Redundant Employee becomes a Paid-up Pensioner, the following provisions (e) and (f) of this Rule shall apply to him until the earlier of:
  - (i) him ceasing to be a Paid-up Pensioner; and
  - (ii) two years from the Termination Date.
- (e) The Redundant Employee will be entitled to death benefits under Rules 38 and 41 as if he had remained an Active Member.
- (f) If a Redundant Employee returned to the employment of the Firm before 1 October 2008 and became an Active Member of the Scheme without having previously retired on pension, his Contributory Staff Service prior to termination of his employment with the Firm due to redundancy shall be aggregated with his Contributory Staff Service subsequent to his re-employment by the Firm.
- (g) Notwithstanding paragraph (d), the Trustee may apply Rule 47(b) to the Redundant Employee. If the Trustee pays a Contributions Equivalent Premium under Rule 47(b) in respect of the Redundant Employee, any rights subsequently arising under paragraphs (e) or (f) of this Rule shall be subject to such adjustments as the Trustee considers appropriate to allow for such payment.

**54B. NO RULE**

## SECTION IX – ADMINISTRATION

### 55. TRANSFERS IN FROM THE WORKMEN'S BASIC OR VOLUNTARY PENSION FUNDS

If a Member, other than one to whom the provisions of paragraph (a) of Clause 7 (*Assets transferred in*) of the Trust Deed apply, was, before being employed on the staff of the Firm, a member of the Pilkington Brothers Limited Workmen's Pension Fund or the Voluntary Scheme or, after 5 April 1980, any successor scheme thereto, and if the Trustee has at the Member's request accepted a payment from either that pension fund or those schemes then if the payment was accepted from the Voluntary Scheme or, before 6 April 1980, from the Pilkington Brothers Limited Workmen's Pension Fund, the pension and other benefits otherwise accruing to such Member hereunder shall be increased in fixed money terms by such amount as the Actuary certified to be appropriate to the sum transferred in, and if the payment was accepted from any successor scheme or, after 5 April 1980, from the Pilkington Brothers Limited Workmen's Pension Fund such Member's Contributory Staff Service shall be deemed to be increased in accordance with the provisions of Rule 25 (Added Years of service).

### 56. SUMS TRANSFERRED IN UNDER RULE 55

Sums received by the Trustee under Rule 55 shall, so far as they represent the contributions of the Firm, be treated as part of the Firm's contributions, and, so far as they represent the contributions of the Member himself, be refundable in accordance with paragraph (a) of Rule 48 (Refund of contributions) (but for no other purpose), as if they were Additional Contributions made on the date of their receipt by the Trustee.

### 57. TRANSFERS IN FROM STAFF WIDOW'S FUND

If the Trustee has received a transfer in respect of any Member from the trustees of the Pilkington Brothers Staff Widows' Fund, then the pension and other benefits otherwise accruing to such Member hereunder shall be increased in fixed money terms by such amount as the Actuary certified to be appropriate to the sum transferred in. Such sum shall be refundable with interest calculated from the date of its receipt by the Trustee in accordance with paragraph (a) of Rule 48 (Refund of contributions) as if it represented Additional Contributions made throughout the period of such Member's contributions to the Pilkington Brothers Staff Widows' Fund.

### 58. ADJUSTMENTS WITH STATE PENSIONS

A Member who retires, and whose pension, Postponed Pension, Deferred Pension or Paid up Pension from the Scheme commences to be paid before he attains the State Pension Age and who is likely to qualify for a pension under the National Insurance Fund or some other form of State pension which will commence only on his attaining that age may be permitted by the Trustee, at its discretion, upon production to it of such medical evidence as it may require and after taking actuarial advice, if he so requests in writing on or after his retirement to have his pension, Postponed Pension, Deferred Pension or Paid up Pension from the Scheme adjusted in such manner as the Trustee determines until the Member attains the State Pension Age as determined by the Trustee as at the date of the Member's retirement so that there shall be no alteration in actuarial value of the pension, Postponed Pension, Deferred Pension or Paid up Pension to which he is entitled.<sup>36</sup>

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<sup>36</sup> Amendment made by deed of amendment dated 4 April 2016 reflecting changes required as a result of the cessation of contracting-out on a salary-related basis with effect on and from 11.59pm on 5 April 2016.

**59. PROTECTIVE TRUSTS**

Any pension, Postponed Pension, Deferred Pension, Paid-up Pension, Spouse's Pension, or annuity payable hereunder is unassignable, and shall cease to be payable if the person otherwise entitled thereto does, or attempts to do, or suffers any act or thing, or any event happens, whereby, if such pension, Postponed Pension, Deferred Pension, Paid-up Pension, Spouse's Pension, or annuity belonged to that person absolutely for his life, he would be deprived, by operation of law or otherwise, of the right to receive the same or any part thereof, and as from such cesser the Trustee may, if it thinks fit, pay or apply all or any part of such pension, Postponed Pension, Deferred Pension, Paid-up Pension, Spouse's Pension, or annuity to or for the maintenance or support of the Member or Pensioner to whom, or in respect of whose service, the same is payable or of any relative or dependant (as defined in paragraph (d) of Rule 40) of that Member or Pensioner, and any balance not so paid or applied shall be forfeited.

The Trustee may permit a pension or other benefit to be assigned, charged or alienated where permitted by the provisions of the Pensions Act 1995.

**59A SET-OFF**

Where there has been an overpayment of a benefit under the Scheme, the Trustee in its absolute discretion may recover the overpayment by reducing future instalments of pension or benefit to that Pensioner, Paid-up Pensioner, Deferred Pensioner, Spouse or Dependant.

**60. TRIVIAL COMMUTATION AND SERIOUS ILL-HEALTH LUMP SUMS**

The Trustee may, on the application of the person entitled thereto, pay to him, in lieu of or in commutation of any pension, Deferred Pension, Paid-up Pension, Postponed Pension, Spouse's Pension or annuity or other pension payable on the death of a Member or Pensioner a lump sum not exceeding the actuarial value thereof, in any of the following circumstances; that is to say where the Pensioner, Deferred Pensioner, Paid-up Pensioner, Postponed Pensioner, Spouse, Dependant or Child satisfies the requirements of the Finance Act 2004 in relation to the payment of:

- (a) a trivial commutation lump sum;
- (b) a serious ill-health lump sum; or
- (c) such other commutation payment as may be prescribed by regulations.

The Trustee may reduce the amount of the lump sum by that of any tax for which it may be accountable.

Payment of a serious ill-health lump sum under sub-paragraph (b) does not extinguish rights to pensions payable on a Member's, Pensioner's, Deferred Pensioner's, Postponed Pensioner's or Paid-up Pensioner's death, although such rights shall be treated as a separate arrangement for the purposes of section 152 of the Finance Act 2004.

**61. COMMENCEMENT OF PAYMENT OF PENSIONS TO PENSIONERS**

The pension payable to a Pensioner under Rule 20, Rule 21, paragraph (a) of Rule 22, Rule 23, Rule 36, or Rule 37 shall commence as from the date of his retirement and the pension payable to a Pensioner under paragraph (e) of Rule 22 or paragraph (a)(v) of Rule 88 shall commence from such date as the Trustee and the Member agree, not being



earlier than the date when the Member exercises his right under Rule 22(e) or Rule 88(a)(v).<sup>37</sup>

**62. PAYMENT OF PENSIONS**

- (a) All pensions, Deferred Pensions, Paid-up Pensions, Spouse's Pensions, annuities, or other benefits payable by instalments under the Rules shall be paid monthly into the bank account of the person entitled thereto, or in such other instalments or in such other manner as may from time to time be agreed between the Trustee and such person, and shall be deemed to accrue from day to day and be apportionable accordingly. All other benefits shall be paid as soon as practicable after they become payable. The Trustee shall have power at its discretion to grant interest when the payment of benefits is delayed.
- (b) All pensions, Deferred Pensions, Paid-up Pensions, Spouse's Pensions, annuities, or other benefits payable by instalments under the Rules shall be payable in sterling only.

**63. CESSATION OF PAYMENT OF PENSIONS**

All pensions, Deferred Pensions, Paid-up Pensions, Spouse's Pensions and annuities shall cease on the last day of the month in which the recipient dies.

**64. PAYMENTS TO BENEFICIARIES' ESTATES**

Whenever under the Rules any sum is payable to the personal representatives of a deceased person, the same shall be paid to them if a grant of representation to his estate shall be produced to the Trustee within six months from the date of his death, but if such grant of representation shall not be so produced within the time aforesaid then the Trustee may, at its absolute discretion, and if satisfied that his estate is not large enough to be liable for inheritance tax, pay such sum to any relative or dependant (as defined in paragraph (d) of Rule 40), or to any two or more of such persons jointly, and the receipt of any such person or persons shall be a good and valid discharge to the Trustee for the sum so paid.

**65. RECEIPTS DURING MINORITY OR INCAPACITY**

If any person entitled hereunder to receive a pension, Deferred Pension, Paid-up Pension, Spouse's Pension, annuity or lump sum payment is a minor or is in the opinion of the Trustee suffering such incapacity as renders him unable to manage his affairs or to give a proper receipt, the Trustee may pay the instalments of such pension, Deferred Pension, Paid-up Pension, Spouse's Pension, annuity or the said lump sum payment to the spouse or any relative (as defined in paragraph (d) of Rule 40) of such person, or to any other person, or to a bank or to an institution, in all cases to be applied for the benefit of the person entitled thereto, and the receipt of such spouse, relative, other person, bank or institution shall be a complete discharge, and the Trustee shall be under no liability for the application of the instalments or of the benefit so paid.

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<sup>37</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

**66. CALCULATION OF INTEREST**

In calculating interest, all contributions made in any one year shall be deemed to have been paid on 31 December in that year, and, where compound interest is payable, it shall be calculated with annual rests on 31 December in each year.

**67. INCOME TAX**

- (a) In any case when the Trustee is liable to account to HMRC for income tax on a refund of any contributions (including interest on contributions) to a Member, a deduction equal to the liability of the Trustee may be made by the Trustee from the contributions repaid to a Member.
- (b) If the Trustee is liable or jointly liable for any tax, charge, levy, fee, duty or other fiscal imposition in respect of any benefit, it may apply part of the benefit in paying the tax, charge, levy, fee, duty or other fiscal imposition (including any interest) or may postpone payment of the benefit until any question about the incidence or liability for any such tax, charge, levy, fee, duty or other fiscal imposition has been resolved and any tax, charge, levy, fee, duty or other fiscal imposition has been paid or provided for to its satisfaction.
- (c) Any benefit payable under the Scheme is expressed as the gross of tax amount and the Trustee shall not compensate the recipient for any tax due on the benefit (including any lifetime allowance charge due under the provisions of the Finance Act 2004). In particular, the Trustee shall have power to recover from any present or future benefit or entitlement under the Scheme an amount reflecting any liability of the scheme administrator in respect of any lifetime allowance charge or unauthorised payment charge or similar charge levied under the Finance Act 2004.

**68. NO CLAIM EXCEPT UNDER RULES**

No person, whether as a Member or otherwise, shall have any claim, right, or interest upon, to or in respect of the Fund, or any contribution thereto or any interest thereon, or any claim upon or against the Trustee of the Scheme, except under and in accordance with the provisions of the Trust Deed and the Rules.

**69. DECISIONS OF THE TRUSTEE**

- (a) For the purpose of the Trust Deed and the Rules, the production of a copy of the minutes of a meeting of the Trustee, duly certified as correct by the Secretary, shall be conclusive evidence of any decision recorded in such minutes.
- (b) The Trustee shall have full power to determine any matters of ambiguity or dispute arising out of the interpretation of the Trust Deed and the Rules.

**70. DECISIONS OF THE COMPANY OR THE FIRM**

For the purposes of the Trust Deed and the Rules, any consent, approval, or decision required to be given or made by the Company or the Firm shall be given in writing under the hand of the Chairman of its Board of Directors, or in such other manner as it may by resolution authorise. The giving or withholding of such consent, approval or decision shall in every case be at the absolute discretion of the Company or the Firm.

71. **AMENDMENTS**

All or any of the provisions of the Rules may be altered in the manner provided by Clauses 17, 18, 19 and 20 of the Trust Deed.

72. **GENERAL MEETINGS**

The Trustee may, whenever it thinks fit, call a General Meeting of Active Members, and they shall, when required to do so by a petition in writing stating the special purposes of such meeting and signed by not less than 100 Active Members, call a General Meeting, and any General Meeting shall be called and held in such manner and at such place and at such time as the Trustee shall determine, and notice of any General Meeting, stating the special purposes thereof, shall be prominently posted in the premises of the Firm at least 10 clear days before the General Meeting is to be held. The Active Members for the time being who are actually present at a General Meeting shall constitute a quorum. Each Active Member shall be entitled to one vote. A Chairman shall be appointed by the Trustee, and, in the event of an equality of votes, shall have a second or casting vote. Voting by proxy shall only be permissible as provided in Rule 73. The instrument appointing the proxy must be in a form approved by the Trustee, and be deposited with the Secretary not later than noon on the day prior to the date of a General Meeting at which it is to be used. No person who is not an Active Member shall, without the consent of the Trustee, be appointed as a proxy.

73. **PROXIES**

An Active Member may only appoint a proxy to attend and vote in his place at a meeting convened in accordance with Clause 20 or Rule 72 if:

- (a) he is unable on account of illness to attend in person; or
- (b) he is employed outside a radius of two miles from the place where the meeting is to be held; or
- (c) he is employed on shift work, and is actually at work at the time of the meeting; or
- (d) the Trustee so allows.

74. **DETERMINATION OF EMPLOYMENT**

Nothing in the Rules shall in any way restrict the right of the Firm to determine the employment of a Member, or to state the reason for so doing, and in any action brought by a Member against the Firm no damages shall be recoverable in respect of the loss of any benefit to which he may claim to have been entitled hereunder.

75. **EVIDENCE OF AGE, ETC**

All Members and persons in receipt of a pension, Deferred Pension, Paid-up Pension, Spouse's Pension, or an annuity hereunder shall provide the Trustee with such evidence of age, identity, survival, and other matters as the Trustee may require.

76. **HEADINGS**

The headings to, and the words appearing in square brackets in, the Trust Deed and the Rules are for convenience of reference only, and are not to be construed as part thereof.

## **SECTION X – OVERRIDING RULES**

### **77. SCHEME LIMITS**

The provisions of Schedule 4 are hereby adopted and incorporated as part of the Rules and shall override any other provisions of the Scheme with which they are inconsistent.

### **78. EQUAL TREATMENT**

The Rules shall be subject to the overriding non-discrimination, sex equality and maternity equality rules as set out in sections 61, 67 and 75 of the Equality Act 2010.

### **79. CONTRACTING-OUT**

The provisions of Schedule 3 are hereby adopted and incorporated as part of the Rules and in relation to any employments which are contracted-out by reference to the Scheme they shall override any other provisions of the Scheme with which they are inconsistent. The Trustee with the consent of the Firm may exercise any of the powers conferred by Schedule 3.

### **79A. PENSION SHARING ON DIVORCE**

The provisions of Schedule 5 are hereby adopted and incorporated as part of the Rules to apply in the circumstances described therein and shall override any other provisions of the Scheme with which they are inconsistent.

### **79B. AVC FLEXIBILITY**

Notwithstanding anything to the contrary in the scheme documentation, the option in Part III of Appendix XII dated 08/2001 of IR12 (2001) as it stood on 5 April 2006 to defer taking annuity and pension benefits may with the consent of the Company be applied to a Member's Additional Contributions invested in accordance with Rule 11(a)(ii).

## **SECTION XI – THE PEPS SUPPLEMENT**

### **80. MEMBERS TO WHOM THE PEPS SUPPLEMENT APPLIES**

The Rules in this Section:

- (a) shall apply from the PEPS Merger Date to:
  - (i) PEPS Transferees who became Active PEPS Members on that date in respect of PEPS Benefits; and
  - (ii) Members who were admitted to active membership in respect of PEPS Benefits on or after that date and before 1 December 2006;
- (b) shall where appropriate take effect in place of the corresponding provisions of the Basic PSS Rules but subject always to Section X.

### **81. SERVICE CALCULATIONS**

- (a) "Prospective Service" means the period beginning on the day after the last day of an Active PEPS Member's Contributory Staff Service and ending on the day immediately before his Normal Retiring Age. An Active PEPS Member who

remains in Contributory Staff Service after Normal Retiring Age, has no Prospective Service.

- (b) Any period of service to be calculated (whether of Contributory Staff Service, Prospective Service or their total) shall be increased if necessary to arrive at an exact number of calendar months.

Provided that when a Member's Contributory Staff Service consists of more than one period the aggregate of such periods shall not when added to any intervening periods which do not rank as Contributory Staff Service exceed the period which would have been calculated under this paragraph of this Rule had his Contributory Staff Service commenced on the date of commencement of the first period of such Contributory Staff Service and terminated on the date of termination of the last period of such Contributory Staff Service.

**82. PEPS RETIRING SALARY**

- (a) PEPS Retiring Salary shall mean the annual rate of salary payable to an Active PEPS Member on the earliest of:
- (i) the day before the day on which he retired or died;
  - (ii) 30 April 2013; and
  - (iii) such other day as the Trustee may at his request consider appropriate (provided that day occurs before 30 April 2013).

Provided that, where the annual rate of salary payable before an Active PEPS Member's retirement has been reduced on account of his absence due to ill-health, the Trustee shall ignore the reduction in assessing his PEPS Retiring Salary.

- (b) Rule 82(a)(ii) and the proviso in Rule 82(a)(iii) shall be ignored for the purposes of calculating an Active PEPS Member's ill-health pension and any death benefits payable on the death of an Active PEPS Member.

**83. NORMAL SCHEME PENSION**

- (a) In addition to the pension payable under the Basic PSS Rules, the normal pension payable under the PEPS Supplement to an Active PEPS Member who retires on attaining the Normal Retiring Age shall be an annual rate (the "**PEPS Increment**") payable from then and calculated in accordance with the following formula:

$$\frac{N}{NS} \times \left[ \frac{(NS + 2)}{60} \times PRS \text{ plus } X - Y \right]$$

where

N represents his total number of years of Contributory Staff Service.

NS represents his total number of years of Contributory Staff Service plus his total number of years of Prospective Service.

PRS represents his PEPS Retiring Salary.

- X represents the amount (if any) calculated for him under paragraph (b) of this Rule.
- Y represents the amount ascertained for him under paragraph (c) of this Rule.

(b) The value of X in the formula set out in paragraph (a) of this Rule shall be calculated as follows:

- (i) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is 40 or more years, as 0;
- (ii) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is more than 20 years but less than 40 years, in accordance with the formula:

$$\frac{(40 - NS)}{130} ARS$$

- (iii) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is less than 20 years, in accordance with the formula:

$$\frac{NS \times ARS}{130}$$

where, in cases (ii) and (iii), NS represents his total number of years of Contributory Staff Service plus his Prospective Service;

ARS represents his Average Retiring Salary determined in accordance with whichever is appropriate to his circumstances of Rules 19, 22, 51 and 53.

(c) In the general application of the formula set out in paragraph (a) of this Rule, that is to say in relation to a Member who retires on attaining the Normal Retiring Age, and in any other application, Y shall be the annual rate of pension that would be payable to the Member at Normal Retiring Age under Rule 20 if he continued as a Higher Accrual Member under the Basic PSS Rules until he attained that age with no other change of circumstances.

In the case of a Named Member and any Member who joined PEPS after 31 May 1989 and ceased to be an Active PEPS Member before 6 April 2006, his pension on attaining the Normal Retiring Age shall be the lesser of that calculated in accordance with paragraph (a) hereof and that calculated in accordance with the following formula:

$$\frac{N}{30} \times PM - Y$$

where N and Y have the meanings assigned to them in paragraph (a) hereof and PM represents the Permitted Maximum.

For the purposes of this paragraph, the "Permitted Maximum" is £137,400 as at 6 April 2012, adjusted on such dates, at such intervals and in such manner as the

Trustee decides to take account of increases in the index of retail prices, or by such greater amount as the Company may in its absolute discretion from time to time notify the Trustee.

- (d) This Rule 83 shall not apply to any Member who is a Lower Accrual Member.

**83A. NORMAL SCHEME PENSION FOR LOWER ACCRUAL MEMBERS**

- (a) In addition to the pension payable under the Basic PSS Rules, the normal pension payable under the PEPS Supplement to an Active PEPS Member, who has elected to become a Lower Accrual Member and who retires on attaining the Normal Retiring Age shall be an annual rate (the "**PEPS Increment for Lower Accrual Members**") payable from then in accordance with the following formula:

$$\left[ \frac{(NS + 2) \times PRS}{60} \times \frac{m}{NS} \right] \text{ plus } \left[ \frac{(NS + 2) \times PRS}{80} \times \frac{q}{NS} \right] \text{ plus } X - \left[ Y \times \frac{(m + q)}{NS} \right]$$

where

NS represents his total number of years of Contributory Staff Service plus his total number of years of Prospective Service

m represents the Member's number of years of Contributory Staff Service before becoming a Lower Accrual Member

q represents the Member's number of years of Contributory Staff Service after becoming a Lower Accrual Member

PRS represents his PEPS Retiring Salary

X represents the amount (if any) calculated for him under paragraph (b) of this Rule

Y represents the amount ascertained for him under paragraph (c) of this Rule.

- (b) The value of X in the formula set out in paragraph (a) of this Rule shall be calculated as follows:

(i) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is over 40 years, as 0;

(ii) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is more than 20 years but less than 40 years, in accordance with the formula:

$$\left[ \frac{(40 - NS)}{130} \times ARS \times \frac{m}{NS} \right] \text{ plus } \left[ \frac{(40 - NS)}{175} \times ARS \times \frac{q}{NS} \right]$$

(iii) in the case of a Member whose Contributory Staff Service when combined with his Prospective Service is less than 20 years, in accordance with the formula:

$$\left[ \frac{NS}{130} \times ARS \times \frac{m}{NS} \right] \text{ plus } \left[ \frac{NS}{175} \times ARS \times \frac{q}{NS} \right]$$

where, in cases (ii) and (iii), NS represents his total number of years of Contributory Staff Service plus his total number of years of Prospective Service; m represents his number of years of Contributory Staff Service before becoming a Lower Accrual Member; and q represents his number of years of Contributory Staff Service after becoming a Lower Accrual Member;

ARS represents his Average Retiring Salary determined in accordance with whichever is appropriate to his circumstances of Rules 19, 22, 51 and 53.

- (c) In the general application of the formula set out in paragraph (a) of this Rule, that is to say in relation to a Member who retires on attaining the Normal Retiring Age, and in any other application, Y shall be the annual rate of pension that would be payable to the Member at Normal Retiring Age under Rule 20 if he continued as a Lower Accrual Member under the Basic PSS Rules until he attained that age with no other change of relevant circumstances.

In the case of a Named Member and any Member who joined PEPS after 31 May 1989 and ceased to be an Active PEPS Member before 6 April 2006, his pension on attaining the Normal Retiring Age shall be the lesser of that calculated in accordance with paragraph (a) hereof and that calculated in accordance with the following formula:

$$\frac{N}{30} x PM - Y$$

where N represents his total number of years of Contributory Staff Service and Y has the meaning assigned to it in paragraph (a) hereof and PM represents the Permitted Maximum.

- (d) For the purposes of this paragraph, the "Permitted Maximum" is £137,400 as at 6 April 2012, adjusted on such dates, at such intervals and in such manner as the Trustee decides to take account of increases in the index of retail prices, or by such greater amount as the Company may in its absolute discretion from time to time notify the Trustee.

#### 84. LATE RETIREMENT PENSION

- (a) If an Active PEPS Member remains in the Firm's employment beyond the Normal Retiring Age, he shall remain in Contributory Staff Service and continue to accrue benefits as a Higher Accrual Member or Lower Accrual Member as appropriate, unless he notifies the Trustee, in such form as the Trustee may require, that he wishes to opt-out of Contributory Staff Service.
- (b) If an Active PEPS Member remains in Contributory Staff Service in accordance with sub-paragraph (a) above, his PEPS Increment on retirement will be calculated under Rule 83 or Rule 83A, as appropriate, except that references in those Rules to Normal Retiring Age shall be read as references to the date on which the Member actually retires from Contributory Staff Service.
- (c) If an Active PEPS Member opts-out of Contributory Staff Service after Normal Retiring Age while remaining in the Firm's employment:



- (i) Rule 36 shall not apply to him;
- (ii) he shall become a Postponed Pensioner and there shall be calculated the pension that would have been payable to him under Rules 20 and 83 or 83A (as appropriate) if he had retired on the date on which his opt-out notice took effect;
- (iii) the pension so calculated shall be his Postponed Pension and payable from the date on which he elects and without any adjustment other than<sup>38</sup>:
  - (1) in respect of benefits accrued before 1 December 2006, pursuant to Clause 19(a) or (b) of the Trust Deed for which purpose the Postponed Pensioner's Postponed Pension in respect of his PEPS Benefits will be treated as if it were in payment; and
  - (2) in respect of benefits accrued on and from 1 December 2006, the revaluation requirements set out in the Pension Schemes Act 1993 will be deemed to apply as though the Postponed Pensioner had left employment before normal pension age (as defined by section 180 of the Pension Schemes Act 1993) and normal pension age were the date on which the Postponed Pensioner's pension comes into payment.<sup>39</sup>
- (d) An Active PEPS Member who dies in Contributory Staff Service on or after Normal Retiring Age will be entitled to death benefits calculated in accordance with Rules 85 and 86.
- (e) A PEPS Member, who has become a Postponed Pensioner, and who dies in employment with the Firm after Normal Retiring Age, having opted-out of Contributory Staff Service on or after Normal Retiring Age, will be entitled to death benefits calculated in accordance with Rule 87 as though he had retired from the Firm and his pension had come into payment on the day immediately preceding his death.

**85. LUMP SUM DEATH BENEFIT FOR MEMBERS IN CONTRIBUTORY STAFF SERVICE**

If an Active PEPS Member dies in Contributory Staff Service, paragraphs (a) and (b) of Rule 38 shall each be amended in their application to him by the deletion of the words "three and one-half times the Member's Normal Salary" and the substitution therefor of the words "four times the Member's PEPS Retiring Salary".

**86. PENSIONS FOR SPOUSES, NAMED DEPENDANTS AND DEPENDENT CHILDREN ON A MEMBER'S DEATH IN CONTRIBUTORY STAFF SERVICE**

In the circumstances described in this Rule, an Active PEPS Member shall be entitled to benefits under this Rule in addition to those payable under Rule 41.

The provisions of paragraphs (b), (c) and (g) of Rule 41 are incorporated to form part of this Rule and shall apply without change in respect of the benefits under this Rule.

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<sup>38</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

<sup>39</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

The provisions of paragraphs (a), (d), (e) and (f) of Rule 41 are incorporated to form part of this Rule with the following amendments:

- (a) Paragraph (a) shall apply with the deletion of the words "Prospective Pension" and the substitution therefor of the words "Prospective PEPS Pension".
- (b) Paragraph (d) shall be read as if the following new paragraph (d) were substituted therefor:
  - "(d) For the purposes of this Rule, an Active Member's Prospective PEPS Pension shall mean the Member's PEPS Increment under Rule 83 or Rule 83A, as appropriate, which he would have received if he had continued as an Active PEPS Member until his Normal Retiring Age with no change of relevant circumstance except his age provided that if he had been transferred due to illness or incapacity within three years of his death to a post carrying a lower rate of Salary, then the Salary immediately before such transfer, if greater than his Salary at death, shall be regarded as continued until Normal Retiring Age. If the Active Member had already reached his Normal Retiring Age on the date of his death, his Prospective PEPS Pension shall mean the Member's PEPS Increment under Rule 84(b), which he would have received if he had retired on the day before his death."
- (c) Paragraph (e) shall apply:
  - (i) with the deletion of the words "Prospective Pension" and the substitution therefor of the words "Prospective PEPS Pension";
  - (ii) so that, in the second sub-paragraph of paragraph (e), if the Trustee has either of the discretions therein described in relation to an Active PEPS Member, the Trustee will be obliged to exercise the discretion in question to increase the relevant pension or pensions by the full amount possible under that sub-paragraph.
- (d) Paragraph (f) shall apply with the deletion of the words "Prospective Pension" in the two places where they occur and the substitution therefor in each case of the words "Prospective PEPS Pension".

The provisions of paragraphs (h) and (i) of Rule 41 shall not apply in respect of the benefits under this Rule.

**87. PENSIONS FOR SPOUSES, NAMED DEPENDANTS AND DEPENDENT CHILDREN ON DEATH OF A PENSIONER**

In the circumstances described in this Rule, a PEPS Member, who has become a Pensioner, shall be entitled to benefits under this Rule in addition to those payable under Rule 43.

The provisions of paragraph (m) of Rule 43 are incorporated to form part of this Rule and shall apply without change in respect of the benefits under this Rule.

The provisions of paragraphs (a), (g), (i), (j), (k) and (l) of Rule 43 are incorporated to form part of this Rule with the following amendments:

- (a) Paragraph (a) shall be read as if the following new paragraph (a) were substituted therefor:
- "(a) Subject to paragraph (g) of this Rule if a Pensioner dies leaving him surviving a Spouse, such Spouse shall be entitled under this paragraph to a Spouse's Pension until death. Subject to paragraphs (j) and (l) of this Rule such Spouse's Pension shall be half the Notional PEPS Pension of such Pensioner as defined in paragraph (i) of this Rule. Such Spouse's Pension shall be payable from the first day of the month immediately following the month in which the Pensioner died."
- (b) Paragraph (g) shall apply:
- (i) with the deletion of the word "either" and the substitution therefor of the word "any" in line five;
- (ii) by the deletion of the word "or" from the end of subparagraph (i);
- (iii) by the addition of the following after subparagraph (ii):
- "(iii) where the Pensioner dies within three years of marriage; and
- (iv) where such Spouse was not married to the Pensioner at the date of his retirement."
- (c) Paragraph (i) shall be read as if the following new paragraph (i) were substituted therefor:
- "(i) For the purpose of this Rule any such Pensioner's Notional PEPS Pension shall mean that part of the pension to which such Pensioner would have been entitled under the Scheme immediately before his death which consists of PEPS Benefits."
- (d) Paragraph (j) shall be read as if the following new paragraph (j) were substituted therefor:
- "(j) If there was more than ten years' difference in age between the Pensioner and his Spouse, then for each complete year of such difference in age in excess of ten years, the amount of the Spouse's Pension payable under paragraph (a) of this Rule shall be reduced by one per cent if the Pensioner was older than his Spouse and increased by one per cent if he was younger."
- (e) Paragraph (k) shall apply:
- (i) with the deletion of the words "Notional Pension" and the substitution of the words "Notional PEPS Pension";
- (ii) so that, in the second sub-paragraph of paragraph (k), if the Trustee has either of the discretions therein described in relation to a PEPS Member, the Trustee will be obliged to exercise the discretion in question to increase the relevant pension or pensions by the full amount possible under that sub-paragraph.

- (f) Paragraph (l) shall apply with the deletion of the words "Notional Pension" in the two places where they occur and the substitution therefor in each case of the words "Notional PEPS Pension".

The provisions of paragraphs (f), (h), (n) and (o) of Rule 43 shall not apply in respect of the benefits under this Rule.

**88. BENEFITS ON RETIRING OR LEAVING SERVICE BEFORE THE NORMAL RETIRING AGE**

In the circumstances described in this Rule the benefits set out below will be payable to a PEPS Member under the PEPS Supplement in addition to his benefits under the Basic PSS Rules.

**(a) Early retirement pensions**

- (i) If an Active PEPS Member retires before the Normal Retiring Age but not before his Minimum Retirement Age, he shall become entitled to a pension calculated in accordance with paragraph (ii) or (iii) below, which shall be payable at the Normal Retiring Age provided that such pension of a Member who retires at any time on or after his Minimum Retirement Age and does so with the consent of the Firm or who retires on or after his 60th birthday even without that consent shall be payable from such earlier date during his retirement as he may choose.
- (ii) If the pension under (i) above becomes payable at the Normal Retiring Age it shall be equal to the pension calculated under Rule 83 or 83A as appropriate.
- (iii) If the pension under (i) above becomes payable from a date earlier than the Normal Retiring Age, it shall be equal to the appropriate percentage set out in the following table according to his age at which the pension commences:

| <b>Age at which pension commences</b> | <b>Appropriate percentage</b> |
|---------------------------------------|-------------------------------|
| 63                                    | 100                           |
| 62                                    | 97                            |
| 61                                    | 95                            |
| 60                                    | 92                            |
| 59                                    | 87                            |
| 58                                    | 82                            |
| 57                                    | 79                            |
| 56                                    | 76                            |
| 55                                    | 73                            |
| 54                                    | 70                            |
| 53                                    | 68                            |
| 52                                    | 66                            |
| 51                                    | 64                            |
| 50                                    | 62                            |

provided that if a Member's pension does not commence on his birthday the appropriate percentage shall be calculated by interpolation.

- (iv) The provisions of Rules 39, 40 and 43 shall be applicable to a Member entitled to pension under the foregoing subparagraphs of this paragraph

(a) of this Rule who shall have, and in respect of whom there shall arise, the same rights under those Rules as a Pensioner has, or as arise in respect of him, except that reference in such Rules to a Pensioner or pension payable to such person shall be construed as a reference to the Member entitled under the provisions of this Rule and to the pension to which he is or will be entitled hereunder respectively.

- (v) An Active PEPS Member who has attained Minimum Retirement Age but has not reached Normal Retiring Age may choose to cease to accrue further benefits under the Scheme in order to elect to receive an immediate but reduced pension under Rule 88(a) while remaining in employment with the Firm, provided that a Member who has not reached his 60<sup>th</sup> birthday must obtain the consent of the Firm. Pensions payable under this Rule 88(a)(v) shall be calculated in accordance with the preceding provisions of this Rule 88(a) except that nothing in this Rule shall require the Member to have left employment with the Firm.<sup>40</sup>

(b) **Ill-health**

An Active PEPS Member who retires on an ill-health pension under Rule 23 or a total incapacity pension under Rule 37 shall be entitled to be paid his Prospective PEPS Pension from the date of his retirement on pension under Rule 23 or 37 as applicable. The Prospective PEPS Pension is the PEPS Increment calculated under Rule 83 or Rule 83A, as appropriate, which he would have received if he had continued as an Active PEPS Member until his Normal Retiring Age with no change of relevant circumstances except his age.

(c) **Paid-up pensions**

If a Member's benefits under the Basic PSS Rules fall to be treated under Rule 47, his PEPS Benefits shall be treated in the same way. If he is Paid-up Pensioner under Rule 51, his entitlement in respect of his PEPS Benefits will be to a pension payable from the Normal Retiring Age or earlier (but not before his Minimum Retirement Age) calculated and payable in accordance with the provisions of paragraph (a) of this Rule (but increased by the Revaluation Percentage).

A Member shall also become entitled to the benefit described above if, while remaining in Contributory Staff Service under the Basic PSS Rules, he ceases to accrue further benefits as an Active PEPS Member.

(d) **Transfer to another pension scheme or insurance policy**

If a Member's benefits under the Basic PSS Rules fall to be treated under Rule 47 and if the Member exercises his option under Rule 50 in respect of those benefits, he must at the same time require the Trustee to either:

- (i) transfer to another Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme the amount the Actuary certifies as the Cash Equivalent of his PEPS Benefits; or
- (ii) use such amount as the Actuary certifies to be the Cash Equivalent of his PEPS Benefits to purchase in his name or in the Trustee's name as

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<sup>40</sup> Amendment made by deed of amendment allowing members to receive a pension while continuing in service with the Firm dated 6 November 2017 with effect as of and from 6 November 2017.

nominee for him from an Insurance Company a policy by which there shall be secured a non-assignable and non-commutable, except to such extent as is permitted in accordance with the Rules, annuity of an amount equal to the PEPS Benefits to which the Member is entitled by way of Paid-up Pension under paragraph (c) of this Rule together with contingent benefits payable on his death and payable in accordance with the provisions of the Rules,

provided that such transfer shall be a recognised transfer for the purposes of section 169 of the Finance Act 2004.

Upon the Trustee making a payment under paragraph (d)(i) of this Rule or procuring the issue in such Member's name of a policy under the provisions of paragraph(d)(ii) of this Rule to secure such an annuity, the Trustee shall thereupon be discharged from all further liability to or in respect of such Member in respect of his PEPS Benefits, who shall have, and in respect of whom there shall be, no further claim under or interest in the Scheme.

#### **89. FORMER MEMBERS IN PILKINGTON GROUP EMPLOYMENT**

- (a) In the application of Rule 52 to a PEPS Member, paragraph (f) of Rule 52 shall be read as if the following new paragraph (f) were substituted therefor:
  - "(f) If any Former Member who has ceased to be an Active Member under paragraph (a) of this Rule dies while he is still employed within the Pilkington Group the provisions of Rule 85 shall apply as if such Former Member were still an Active Member but with the substitution for the reference to "PEPS Retiring Salary" of a reference to "Increased PEPS Retiring Salary" as defined in Rule 90."
- (b) In addition to the benefits payable by virtue of paragraph (g) of Rule 52, Rule 86 shall apply in relation to his PEPS Benefits as if such Former Member were still an Active PEPS Member but so that, in calculating the Member's Prospective PEPS Pension for the purpose of paragraph (d) of Rule 41 there shall be substituted a calculation made in accordance with Rule 83 or Rule 83A as appropriate but utilising (for the purpose of ascertaining the Former Member's PEPS Retiring Salary under Rule 82) Increased PEPS Retiring Salary (in place of PEPS Retiring Salary) and Increased PEPS Average Retiring Salary (in place of the alternative in the further proviso in Rule 82) these terms having the respective meanings in Rule 90.
- (c) Upon any such Former Member ceasing to be employed within the Pilkington Group before the Normal Retiring Age he shall thereupon become entitled to a Paid-up Pension under paragraph (c) of Rule 88 except that the said pension shall be calculated by reference to Increased PEPS Retiring Salary and Increased PEPS Average Retiring Salary at the date of so ceasing to be employed.
- (d) Upon any such Former Member attaining the Normal Retiring Age while he continues to be employed within the Pilkington Group he shall become entitled to a pension in accordance with the provisions of paragraph (a) of Rule 88 but related to Increased PEPS Retiring Salary and Increased PEPS Average Retiring Salary at the Normal Retiring Age.

- (e) The Trustee may subject to any requirements specified by it (and with the consent of the Former Member, unless this paragraph applies to a specified group of Former Members, in which case consent is not required) transfer to a superannuation scheme, which is a Qualifying Recognised Overseas Pension Scheme, (if any) referred to under paragraph (b) of Rule 52 such amount as is certified by the Actuary not exceeding the actuarial reserve held in respect of such Former Member or Former Members in the Fund and in such event the Former Member or Former Members shall have no further claim or interest in the Scheme.
- (f) In no circumstances shall the pension payable to a PEPS Member who is a Former Member be less than the pension that would have been payable if the Former Member had instead become a Paid-up Pensioner under Rule 51 when he ceased to be an Active Member under paragraph (a) of Rule 52.

90. **"INCREASED PEPS RETIRING SALARY" AND "INCREASED PEPS AVERAGE RETIRING SALARY"**

**"Increased PEPS Retiring Salary"** shall mean in relation to a Former Member the lesser of the annual Salary expressed in sterling on which such Former Member was contributing to the superannuation scheme (if any) of which he was a member immediately before his death or retirement as appropriate and the PEPS Retiring Salary at the date he ceased to be an Active Member adjusted by reference to any change in the Index since he ceased to be an Active Member.

**"Increased PEPS Average Retiring Salary"** shall mean in relation to a Former Member the lesser of:

- (A) (i) in the case of death the highest annual Salary, expressed in sterling, during any of the three years preceding his death in which he was contributing to the superannuation scheme of which he was a member immediately before his death,
- (ii) in the case of retirement the average of the annual Salary expressed in sterling on which contributions to the superannuation scheme of which he was a member immediately before his retirement over whatever period of three consecutive years out of the last 10 years of his Service immediately preceding his retirement provides the highest average

and

- (B) in either case his Normal Salary for the purpose of the Scheme as defined in Rule 10 at the date upon which he ceased to be an Active Member adjusted by reference to any change in the Index since he ceased to be an Active Member.

91. **TERMINATION OF EMPLOYMENT ON REDUNDANCY**

- (a) If an Active PEPS Member becomes a Redundant Employee for the purposes of Rule 54A he shall be known for the purposes of this Rule 91 as a Protected Redundant Employee.
- (b) He shall continue to be a Protected Redundant Employee until whichever is the earliest of:
  - (i) such date as the Trustee in its absolute discretion may decide; and
  - (ii) the end of the period of two years referred to in paragraph (d) of Rule 54A;

unless he has elected to transfer his Cash Equivalent to another pension scheme in accordance with Rule 50 or received a refund of contributions in accordance with Rule 48.

- (c) In relation to a Protected Redundant Employee Rule 54A (except for paragraph (f) thereof) shall also apply in respect of his PEPS Benefits.
- (d) The provisions of paragraph (c) of Rule 88 shall apply to a redundant employee provided that if during the period beginning on the date his employment with the Firm was terminated and ending immediately before the second anniversary of that date he returns to the employment of the Firm and again becomes an Active Member of the Scheme without having retired on pension his eligible service as an Active PEPS Member prior to the beginning of that period shall for the purposes of his PEPS Benefits be aggregated with his service as an Active PEPS Member after the end of that period.

And provided further that the provisions of paragraph (c) of Rule 88 shall not apply whilst a redundant employee is a Protected Redundant Employee but once he ceases to be a Protected Redundant Employee they shall be deemed to have taken effect from the date when his employment with the Firm was terminated.

The provisions of this paragraph (d) do not apply in respect of any redundant employee who returns to the employment of the Firm on or after 1 December 2006.



**APPENDIX TO THE RULES**

**TABLE I**

**APPROPRIATE PERCENTAGES OF PENSION TO BE SURRENDERED**

**RULE 44 PARAGRAPH (d)(i)**

| <b>Age Difference in Years</b> | <b>Appropriate Percentage</b> |
|--------------------------------|-------------------------------|
| 10 or less                     | 7                             |
| 11                             | 8                             |
| 12                             | 9                             |
| 13                             | 10                            |
| 14                             | 11                            |
| 15                             | 12                            |
| 16                             | 13                            |
| 17                             | 14                            |
| 18                             | 16                            |
| 19                             | 17                            |
| 20                             | 19                            |

**TABLE II**

**ANNUITIES FOR SPOUSES OR DEPENDANTS  
(BY SURRENDER OF PENSION FROM ADDITIONAL CONTRIBUTIONS)  
PAYABLE FROM DEATH OF MEMBER  
OR AT EXPIRATION OF 10 YEARS FROM  
DATE OF COMMENCEMENT OF PENSION**

**RULE 44 PARAGRAPH (e)(iii)**

| <b>Amount by which Spouse or Dependant<br/>is older or younger than Member</b> | <b>Amount of Spouse's or Dependant's annuity,<br/>expressed as a percentage of the unreduced<br/>pension of the Member obtained for a<br/>surrender of 10% of the unreduced pension of<br/>the Member<br/>Percentage</b> |
|--|--|
| 6 or more years older  | 98.3   |
| 5 years older  | 86.3   |
| 4 years older  | 77.1   |
| 3 years older  | 69.3   |
| 2 years older  | 62.2   |
| 1 year older   | 56.8   |
| same age   | 51.9   |
| 1 year younger   | 47.6   |
| 2 years younger  | 44.1   |
| 3 years younger  | 41.0   |
| 4 years younger  | 38.1   |
| 5 years younger  | 35.8   |
| 6 years younger  | 33.7   |
| 7 years younger  | 31.7   |
| 8 years younger  | 30.1   |
| 9 years younger  | 28.6   |
| 10 years younger   | 27.2   |
| 11 years younger   | 26.1   |
| 12 years younger   | 25.0   |

**TABLE III**  
**ANNUITIES FOR SPOUSES AND DEPENDANTS**  
**(BY SURRENDER OF PENSION FROM ORDINARY CONTRIBUTIONS)**  
**PAYABLE FROM DEATH OF MEMBER**  
**OR AT EXPIRATION OF FIVE YEARS FROM DATE OF COMMENCEMENT OF PENSION**  
**RULE 44 PARAGRAPH (g)**

| <b>Amount by which Spouse or Dependant<br/>is older or younger than Member</b> | <b>Amount of Spouse's or Dependant's annuity<br/>expressed as a percentage of the unreduced<br/>pension of the Member obtained for a<br/>surrender of 10% of the unreduced<br/>pension of the Member</b> |
|--|--|
|  | <b>Percentage</b>  |
| 6 or more years older  | 50.0   |
| 5 years older  | 46.1   |
| 4 years older  | 42.5   |
| 3 years older  | 39.2   |
| 2 years older  | 36.2   |
| 1 year older   | 33.5   |
| same age   | 31.1   |
| 1 year younger   | 29.0   |
| 2 years younger  | 26.9   |
| 3 years younger  | 25.1   |
| 4 years younger  | 23.6   |
| 5 years younger  | 22.4   |
| 6 years younger  | 21.2   |
| 7 years younger  | 20.3   |
| 8 years younger  | 19.4   |
| 9 years younger  | 18.5   |
| 10 years younger   | 17.6   |
| 11 years younger   | 17.0   |
| 12 years younger   | 16.4   |

The age difference should be expressed to the nearest month, and the appropriate percentage found by interpolation in the above table.

## SCHEDULE 3<sup>41</sup>

### Contracting-Out Rules

#### PART I – APPLICATION OF SCHEDULE

1. The Scheme is intended to be an occupational pension scheme which, prior to 6 April 2016, was contracted-out by virtue of satisfying section 9(2) of the Pension Schemes Act 1993 as in force prior to 6 April 2016. Following the abolition of contracting-out on 6 April 2016, in respect of all Members the Scheme will comply with the Pension Schemes Act 1993, the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015, the Abolition of Contracting-out for Salary Related Pension Schemes (Consequential Amendments) Order 2016, and any other applicable legislation (subject to any transitional provisions under the Pensions Act 2014 (Savings) Order 2015) and this Schedule should be read in light of the legislation in force from time to time listed in this Rule 1.
2. The provisions of this Schedule override any of the other provisions of the Scheme with which they are inconsistent. This Schedule has been drafted to comply with Section 12(E) of the Pension Schemes Act 1993 and should be construed accordingly.
3. Part II of this Schedule applies in relation to periods of contracted-out employment by reference to the Scheme (as in sections 8(1)(a)(i) and 8(1)(b) of the Pension Schemes Act 1993) prior to 6 April 1997 and Part III of this Schedule applies in relation to periods of contracted-out employment by reference to the Scheme (as aforesaid) after 5 April 1997 and prior to 6 April 2016.
4. The provisions of the Scheme shall not be altered in a manner which is prohibited by section 37(1) of the Pension Schemes Act 1993 or Regulation 17 of the No 2 Regulations if and to the extent that that legislation is in force and applies to the Scheme at the relevant time.

#### PART II – PRE-APRIL 1997 CONTRACTED-OUT RIGHTS

##### 5. DEFINITIONS

In this Schedule and in the rules in this Part of this Schedule the following words have the following meanings:

the "**Act**" means the Pension Schemes Act 1993.

"**Contracted-out Employment**" means a Member's contracted-out employment by reference to the Scheme (as in section 8(1)(a)(i) and 8(1)(b) of the Act).

"**Fixed Rate Revaluation**" means the method of revaluing a GMP before GMP Pensionable Age described in Rule 9.1(B) below.

"**GMP**" means the guaranteed minimum pension of a Member, Widow, Widower, or surviving Civil Partner as defined in the Act.

"**GMP Pensionable Age**" means a man's 65th birthday and a woman's 60th birthday.

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<sup>41</sup> Amendment made by deed of amendment dated 4 April 2016 reflecting changes required as a result of the cessation of contracting-out on a salary-related basis with effect on and from 11.59pm on 5 April 2016.

**"Member"** means a member of the Scheme (including a person who is not in the pensionable service of any employer participating in the Scheme but to whom or in respect of whom, benefits are still immediately or prospectively payable under the Scheme in respect of previous membership of the Scheme or another scheme).

**"No 2 Regulations"** means the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015.

**"Scheme"** means this occupational pension scheme.

**"Pensionable Age"** has the same meaning as in paragraph 1, Schedule 4 of the Pensions Act 1995.

**"Protected Rights"** has the meaning given in section 10 of the Act prior to that section being repealed.

**"Qualifying Service"** has the same meaning as in section 71(7) of the Act.

**"Rule"** (followed by a number) means the Rule (with that number) in this Part of this Schedule and **"these Rules"** means the Rules in this Part of this Schedule.

**"Section 53 money purchase scheme"** means a scheme which was a contracted-out scheme, providing protected rights and satisfying section 9(3) of the Act, and to which section 53 of the Act applies.

**"Section 53 salary related scheme"** means a scheme which was a contracted-out scheme, providing guaranteed minimum pensions and satisfying section 9(2)(a) of the Act, and to which section 53 of the Act applies.

**"Section 148 Revaluation"** means the method of revaluing a GMP before GMP Pensionable Age described in Rule 9.1(A) below.

**"Trustee"** means the trustees or administrators of the Scheme.

**"Widow"** and **"Widower"** means respectively the widow and the widower of a Member. If a Member has married under a law which allows polygamy and, on the day of the Member's death, has more than one spouse, the Trustee must decide which, if any, survivor is the Widow or Widower. In reaching that decision, the Trustee must have regard to the practice of the Department of Work and Pensions and any relevant provisions of existing Social Security legislation, in particular section 17(5) of the Act and regulation 2 of the Social Security and Family Allowance (Polygamous Marriages) Regulations 1975 (SI 1975/561).

## 6. **OVERRIDING EFFECT OF THESE RULES**

These Rules will only apply for so long as anyone has a GMP or a prospective right to receive a GMP under the Scheme.

These Rules override any inconsistent provisions elsewhere in the Scheme, provided that the Trustee shall not be required to make a payment that would be an unauthorised payment for the purposes of the Finance Act 2004.

## 7. **ALTERATIONS TO THESE RULES**

Subject to the provisions of section 37 of the Act, Regulations 17 and 20 of the No 2 Regulations, and Regulation 65 of the Occupational Pension Schemes (Contracting-out)

Regulations 1996, if and to the extent that that legislation is in force and applies to the Scheme at the relevant time the persons or bodies having the power of alteration in relation to the rest of the Scheme may at any time in writing make any alteration to these Rules.

## **8. ENTITLEMENT TO GMP**

### **8.1 Guaranteed Minimum**

This Rule 8 applies to a Member, Widow, Widower or surviving Civil Partner where the Member has a guaranteed minimum in relation to the pension provided for the Member under the Scheme in accordance with section 14 of the Act.

### **8.2 Member's GMP**

The Member shall be entitled to a pension for life paid at a rate equivalent to a weekly rate of not less than that guaranteed minimum. The pension will be paid from GMP Pensionable Age but commencement of the pension may be postponed for any period during which the Member remains in employment after GMP Pensionable Age:

- (1) if the employment is employment to which the Scheme relates and the postponement is not for more than 5 years after GMP Pensionable Age; or
- (2) if the Member consents to the postponement.

### **8.3 Widow's GMP**

Where the Member is a man and dies at any time leaving a Widow, she shall be entitled, subject to Rule 8.4 below, to receive a pension from the Scheme paid at a rate equivalent to a weekly rate of not less than half that guaranteed minimum.

### **8.4 Payment of Widow's GMP**

The pension shall be paid for life to any Widow who is eligible for payment of a State benefit as described in section 17(5) of the Act. It shall cease when the Widow ceases to be entitled to receive payment of those State benefits. In addition, if the Widow satisfies the requirements of Regulation 21 of the No 2 Regulations it shall be paid for the period specified in Regulation 22 of the No 2 Regulations.

### **8.5 Widower's and surviving Civil Partner's GMP**

Where the Member dies:

- (1) at any time on or after 6 April 1989 leaving a Widower;
- (2) on or after 5 December 2005 leaving a surviving Civil Partner; or
- (3) where the Widower or Civil Partner satisfies the conditions in Regulation 21 of the No 2 Regulations

he shall be entitled, subject to Rule 8.6 below, to receive a pension from the Scheme paid at a rate equivalent to a weekly rate of not less than half of that part of the guaranteed minimum which is attributable to earnings for the tax year 1988/1989 and subsequent tax years up to and including the tax year 1996-97.

## 8.6 **Payment of Widower's and surviving Civil Partner's GMP**

Where the Widower or Civil Partner satisfies the requirements of Rule 8.5(1) or (2) above, the pension shall be paid for life to any Widower or surviving Civil Partner who is eligible for payment of a GMP. It shall cease when the Widower or surviving Civil Partner ceases to be entitled to receive payment of that GMP.

Where the Widower or Civil Partner satisfies the requirements of 8.5(3) above it shall be paid for the period specified in Regulation 22 of the No 2 Regulations.

## 8.7 **Offsetting pension against GMP**

Any pension payable to the Member, Widow, Widower or surviving Civil Partner under any other provision of the Scheme in respect of Contracted-out Employment to which Part II of these Rules apply may be offset against the pension entitlement under this Rule 8 except to the extent that:

- (1) any part of the pension is an equivalent pension benefit within the meaning of the National Insurance Act 1965; or
- (2) any part of the pension is an increase, calculated in accordance with Schedule 3 of the Act and added to the amount that would be payable but for Chapter II of Part IV of the Act or regulations made under it; or
- (3) offsetting would contravene the anti-franking legislation (see Rule 11 below); or
- (4) offsetting would contravene Regulation 55 of the Occupational Pension Schemes (Contracting-out) Regulations 1996.

## 9. **REVALUATION OF GMP**

### 9.1 **Revaluation before GMP Pensionable Age**

The Member's GMP at GMP Pensionable Age or at the Member's earlier death will be calculated by increasing the accrued rights to GMP at 5 April 1997 or earlier cessation of Contracted-out Employment as prescribed below.

- (1) For increases up to the date on which Contributory Staff Service ceases, the increase will be by the percentage by which earnings factors for the tax year 1996-97 are increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the tax year in which the Member ceases Contributory Staff Service.
- (2) For increases from the date of cessation of Contributory Staff Service under one of the options (A) or (B) below:

#### **(A) Section 148 Revaluation**

the increase will be by the percentage by which earnings factors for the tax year 1996-97 or the earlier tax year in which Contracted-out Employment ceases are increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into

force before the tax year in which the Member reaches GMP Pensionable Age (or dies, if earlier), or

**(B) Fixed Rate Revaluation**

the increase will be by such rate as regulations made under section 16(3) of the Act specify as being relevant at 5 April 1997 or the later date of cessation of Contracted-out Employment, for each relevant tax year (as defined in section 14 of the Act) after the tax year containing that date up to and including the last tax year before the Member reaches GMP Pensionable Age (or dies, if earlier).

The Trustee and the Company shall decide which of the options (A) or (B) applies to the Scheme. They may at any time decide that the other method shall be used, instead of the method currently being used, for all Members ceasing to be in Contributory Staff Service after a specified date. The Trustee and the Company may alternatively make such revaluation provisions as are permitted under the applicable legislation.

**9.2 Transfers in**

Where a transfer payment is received in respect of a Member from another scheme ("**the transferring scheme**") which includes accrued rights of the Member to a GMP (or includes protected rights in respect of which the receiving scheme will provide a GMP) the earnings factors used in calculating that GMP will normally be revalued using Section 148 Revaluation. The Trustee may, however, decide, if the provisions of the transferring scheme so allow, to use Fixed Rate Revaluation from the date on which the Member ceased to be in Contracted-out Employment or if appropriate, pensionable service by reference to the transferring scheme until the Member attains GMP Pensionable Age (or dies, if earlier).

Where the Scheme accepts the proceeds of, or the assignment of, an insurance policy which consists of, or includes, accrued rights to GMP, the Trustee may use either Section 148 Revaluation or the method of revaluation that was in use under the policy.

**9.3 Transfers out**

Where a Member's accrued rights to GMP are transferred to another scheme that was contracted-out, the Trustee may agree with the administrator of that scheme that the Member's GMP shall, instead of being revalued using the method currently being adopted under Rule 9.1 above, be revalued using the other method which would be permitted if that scheme contained a rule in the same terms as Rule 9.2 above.

**10. INCREASE OF GMP**

**10.1 Increase after GMP Pensionable Age**

If the commencement of any Member's GMP is postponed for any period after GMP Pensionable Age, that GMP shall be increased to the extent, if any, specified in section 15 of the Act.

**10.2 Increase after GMP Pensionable Age or Member's death**

Any GMP to which a Member, Widow, Widower or surviving Civil Partner is entitled under Rule 8 above shall, insofar as it is attributable to earnings in the tax years from and including 1988/1989, be increased in accordance with the requirements of section 109 of the Act.



## 11. ANTI-FRANKING

Except as provided in sections 87-92 and 110 of the Act, no part of a Member's, Widow's, Widower's or surviving Civil Partner's pension under the Scheme may be used to frank an increase in the Member's, Widow's, Widower's or surviving Civil Partner's GMP under Rule 9 or Rule 10 above.

## 12. TRANSFERS INTO THE SCHEME

### 12.1 Acceptance of transfers

The Trustee may accept:

- (a) a transfer payment in respect of the Member's accrued rights to GMPs under a scheme that was contracted-out, a Section 53 salary related scheme or a policy of insurance or an annuity contract of the type described in section 19 of the Act;
- (b) a transfer of the liability for the payment of GMPs to, or in respect of, any person who has become entitled to them;
- (c) a transfer of Protected Rights<sup>42</sup>
  - (i) in respect of the Member from another Scheme which is, or was, an appropriate personal pension scheme;
  - (ii) in respect of the Member from another Scheme which is, or was, a scheme contracted out on a money purchase basis or a Section 53 money purchase scheme.

Transfers may be accepted only as provided under the Act and in the appropriate regulations.

### 12.2 Effect of transfers

Where a transfer is accepted under Rule 12.1(a) above, the Member's accrued rights to GMPs under the Scheme will be increased accordingly.

## 13. TRANSFERS OUT OF THE SCHEME

### 13.1 Conditions for transfer of GMPs

A transfer payment made out of the Scheme may include a Member's accrued rights to GMPs or the liability for the payment of GMPs to, or in respect of, any person who has become entitled to them only if the following conditions are fulfilled. These conditions depend on the type of scheme, policy or contract to which the transfer is being made.

#### (a) All schemes and arrangements

The Member must consent to the transfer unless regulations otherwise allow and, in particular, unless:

- (i) it is a connected employer transfer as defined in the Contracting out (Transfer and Transfer Payment) Regulations 1996. The transfer must be

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<sup>42</sup> Note that protected rights have now been abolished. We have not deleted references to protected rights as they may be relevant to the history of transfers received in respect of current active members

made in accordance with the appropriate regulations (currently SI 1996/1462) which may involve an actuarial certificate;

- (ii) it is to allow benefits to be bought out where the Member has less than 5 years Qualifying Service, or to allow the Trustee to buy out the benefits of the Widow, Widower or surviving Civil Partner of such a Member.

The transfer will be subject to any requirements of the Finance Act 2004.

(b) **Contracted-out salary related schemes and section 19 insurance policies or annuity contracts**

The receiving scheme, policy or contract must provide the Member and the Member's Widow, Widower or surviving Civil Partner with GMPs equal to their accrued GMPs under the Scheme up to the date of transfer, together with revaluation required under the Act. In the case of GMPs already in payment, the receiving scheme must provide for the pensions to commence from the date from which liability for payment has been assumed by it, and for the conditions of payment relating to its own GMPs to apply equally to such pensions.

(c) **All occupational pension schemes (except overseas schemes covered by (e))**

Unless regulations otherwise allow, the Member must be employed by an employer which is a contributor to the receiving scheme or the Member must previously have been a Member of the receiving scheme.

(d) **Appropriate personal pension schemes and occupational pension schemes which are or were contracted-out by the money purchase test**

That part of the transfer payment which relates to the Member's accrued rights to GMPs must be of an amount at least equal to the Cash Equivalent of those accrued rights, and must be applied by the receiving scheme in providing money purchase benefits for, or in respect of, the Member.

(e) **Overseas occupational pension schemes not covered by (b) or (d) above**

The transfer must be in accordance with regulation 6 of SI 1996/1462.

13.2 **Effect of such transfers**

Where the Member's accrued rights to GMPs or liability for GMPs already in payment are transferred in accordance with Rule 13.1 above, the Member and the Member's Widow, Widower or surviving Civil Partner will cease to have any entitlement to a GMP under the Scheme. If the transfer does not relate to the whole of the Member's rights to benefits under the Scheme, the Member's remaining benefits under the Scheme may be reduced to allow for the fact that the Member's GMP rights have been transferred.

14. **COMMUTATION OF GMP**

14.1 **Circumstances in which GMP may be commuted**

Where section 21 of the Act permits the Member's GMP and the Widow's, Widower's or surviving Civil Partner's GMP may be commuted.

15. **WINDING-UP THE SCHEME**

15.1 **Priorities on winding-up**

If the Scheme winds-up for any reason, the assets must be applied to provide benefits in accordance with the provisions of the Scheme applicable on a winding-up, but subject to the provisions of section 73 of the Pensions Act 1995, the Occupational Pension Schemes (Winding-up) Regulations 1996 and the Occupational Pension Schemes (Winding-up etc) Regulations 2005 if and to the extent that that section and those regulations are in force and apply to the Scheme at the relevant time.

16. **CONTRIBUTIONS EQUIVALENT PREMIUMS**

16.1 The Trustee may in respect of all Members elect to pay a contributions equivalent premium as defined in section 181 of the Act, provided such payment is in accordance with and subject to the conditions in the No 2 Regulations.

16.2 Payment of the contributions equivalent premium extinguishes the Member's accrued rights to GMPs under the Scheme.

**PART III – POST-APRIL 1997 CONTRACTED-OUT RIGHTS**

17. In the Rules in this Part of the Second Schedule "Section 9(2B) Rights" has the same meaning as in the No 2 Regulations.

18. The Scheme shall be administered so as to comply with all applicable requirements, including those relating to Section 9(2B) Rights relating to a Scheme that was contracted-out between 6 April 1997 and 6 April 2016 and in respect of which there was in force a contracting-out certificate issued in accordance with Chapter I of Part III of the Pension Schemes Act 1993 applying to employments contracted-out by reference to the Scheme. Benefits payable to and in respect of a Lower Accrual Member in relation to his Contributory Staff Service after 30 June 2013 until such time as his employment ceases to be contracted-out by reference to the Scheme shall be no less than the benefits payable under a reference scheme within the meaning of section 12B of the Pension Schemes Act 1993 as saved by the Pensions Act 2014 (Savings) Order 2015 (the **Reference Scheme Underpin**). The Reference Scheme Underpin shall be calculated by reference to a Lower Accrual Member's qualifying earnings, as defined in section 12B of the Act as in force immediately prior to 6 April 2016, as at the date on which he leaves Contributory Staff Service.

19. The Trustee may at any time and in respect of any Member pay a contributions equivalent premium in respect of any person entitled to Section 9(2B) Rights under the Scheme in accordance with Regulation 12 of the No 2 Regulations and may make such other arrangements for the restoration of State scheme rights as the Trustee decides.

## SCHEDULE 4

### Overriding Scheme Limits and Tax Treatment

#### 1. OVERRIDING RULES AND SCHEME LIMITS

The provisions of this Schedule 4 shall override any other provisions of the Scheme with which they are inconsistent.

#### 2. UNAUTHORISED PAYMENTS

From 6 April 2006 the Scheme shall be administered as a Registered Pension Scheme in accordance with the Finance Act 2004, including (without limitation) the transitional provisions in Schedule 36 to that Act.

No payment shall be made from the Scheme which would amount to an unauthorised payment under section 160 of the Finance Act 2004 except that the Trustee may with the consent of the Company pay an Unauthorised Member Payment on such terms as the Trustee may decide. Where the Trustee makes an Unauthorised Member Payment it must first obtain the consent of the person to whom it will be paid and the Trustee may deduct any charge or tax for which the Trustee or the recipient is liable as a result of the payment, before making the payment or may enter into an arrangement with the recipient to ensure any charge or tax is paid by the recipient.

Where a benefit is reduced because it would be an Unauthorised Member Payment, the Trustee may with the consent of the Company and the relevant recipient provide alternative benefits which are not Unauthorised Member Payments equal to the amount by which the original benefit was reduced.

If any Member or Pensioner, or any benefit in respect of a Member or Pensioner, is within any of the transitional provisions in Schedule 36 Finance Act 2004 then the Trustee will have discretion to apply those provisions including (without limitation) those relating to the exercise of the power to surrender the relevant excess under paragraph 12(5) of that Schedule but so that the Trustee will not be liable for any loss or cost arising from failure to apply those provisions where they relate to primary or enhanced protection.

#### 3. LIFETIME ALLOWANCE EXCESS LUMP SUMS

The Trustee may, where applicable, pay a Member or Pensioner a lifetime allowance excess lump sum (as defined in the Finance Act 2004) at the request of the Member or Pensioner.

#### 4. ANNUAL ALLOWANCE EXCESS CONTRIBUTIONS LUMP SUM

The Trustee may where a Member or Pensioner has met the excess contributions conditions of Schedule 29 to the Finance Act 2004 pay a refund to the Member or Pensioner in the form of an excess contributions lump sum.

#### 5. SCHEME PAYS

If a Member, in accordance with the requirements of Sections 237B to 237F of the Finance Act 2004, exercises his statutory right under Section 237B of the Finance Act 2004 by specifying that the Member and the Trustee are to be jointly and severally liable to pay that Member's annual allowance charge, the Trustee shall at all times comply with its obligations under Sections 237B to 237F of the Finance Act 2004. If the Trustee

makes a payment out of the Scheme in respect of a Member's annual allowance charge (either as a result of its obligations under sections 237B to 237F of the Finance Act 2004 or because the Trustee has agreed that it will satisfy all or part of the Member's liability for the annual allowance charge on a voluntary basis), the Trustee shall make a consequential adjustment to the Member's entitlement to benefits under the Rules on a basis that is just and reasonable after consultation with the Actuary and having regard to normal actuarial practice.

For the purpose of this paragraph 5, "annual allowance charge" has the meaning given in Section 227 of the Finance Act 2004.

**6. PERMITTED MAXIMUM**

With effect on and from 6 April 2006 a Scheme-specific limit, operating in the same manner as the permitted maximum (as that term was defined in Section 590C of the Income and Corporation Taxes Act 1988) will apply to all Members who are also members of the The Pilkington Unfunded Top Up Scheme established by deed dated 17 October 1997 (unless the Trustee and the Company agree otherwise) and will be the "Permitted Maximum". For the purposes of this paragraph, the "Permitted Maximum" is £137,400 as at 6 April 2012, adjusted on such dates, at such intervals and in such manner as the Trustee decides to take account of increases in the index of retail prices, or by such greater amount as the Company may in its absolute discretion from time to time notify the Trustee.

**7. ARRANGEMENTS**

The Trustee may determine how and when the arrangements that apply in respect of a Member or Pensioner under the Scheme for the purposes of the Finance Act 2004 are established and may make such determination with retrospective effect provided that this power shall not be exercised if to do so would relieve any person of a tax charge that has already arisen.

## SCHEDULE 5

### Pension Sharing on Divorce

#### Interpretation

In this Schedule references to a Member shall, where appropriate, include reference to an Active Member, a Pensioner, a Postponed Pensioner, a Former Member, a Deferred Pensioner and a Paid-up Pensioner.

#### 1. PENSION SHARE

- 1.1 On receipt of a Pension Sharing Order, the Trustee shall take the actions specified in section 29 Welfare Reform and Pensions Act 1999 and regulations made under and in respect of that section (creation of debits and credits). The Trustee shall do this within the implementation period specified in section 34 of that Act unless that period is extended under section 33(4) of that Act.
- 1.2 Rule 59 in Schedule 2 is amended to permit the assignment of part or all of the Member's retirement benefits or rights to benefits under the Scheme to his/her Ex-Spouse to the extent necessary to comply with the Pension Sharing Order, agreement or equivalent provision.
- 1.3 The Member's benefits shall be reduced by the amount of the Pension Debit in the manner provided by section 31 Welfare Reform and Pensions Act 1999 and those sections of the Pension Schemes Act 1993 which are amended by section 32 Welfare Reform and Pensions Act 1999.
- 1.4 The Trustee reserves the right to seek medical evidence before implementing a Pension Sharing Order.

#### 2. CHARGES

- 2.1 The Trustee shall have power to impose such charges for implementing a Pension Sharing Order and for dealing with enquiries from the Member and the Ex-Spouse as it thinks fit and as are in accordance with the Pensions on Divorce etc (Charging) Regulations 2000, provided that it has complied with the pre-conditions for charging set out in those Regulations.
- 2.2 The Trustee may require such charges to be paid in cash either before during or after implementation of the Pension Sharing Order or provision of information. Alternatively, the Trustee may deduct the value of such charges from the benefits of the Member, the Pension Credit of the Ex-Spouse or the Pension Credit Benefit (or alternatives under paragraph 7) of the Ex-Spouse Participant. The reduction of a Member or Ex-Spouse Participant's benefits under this paragraph shall be deemed to be made under the power in the Pensions on Divorce etc (Charging) Regulations 2000 and not under a power conferred by the Scheme.

#### 3. INTERNAL/EXTERNAL TRANSFER

- 3.1 The Trustee shall decide whether or not to allow the Ex-Spouse to become an Ex-Spouse Participant in the Scheme. Rule 4 in Schedule 2 shall be deemed to permit the Ex-Spouse to become an Ex-Spouse Participant where the Trustee so decides.

3.2 The Trustee shall provide the Ex-Spouse with a notice offering a transfer in accordance with paragraph 4.2 of this Schedule.

4. **EXTERNAL TRANSFER**

4.1 If:

- (a) the Trustee has determined that no internal transfers shall be available to the Ex-Spouse and the Ex-Spouse has either consented to an external transfer under this paragraph or has failed to consent and the circumstances in Regulation 7(2) Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 have been satisfied; or
- (b) if the Trustee has determined that internal transfers shall be available but the Ex-Spouse has decided to accept an external transfer under this paragraph; or
- (c) the Trustee has determined that internal transfers shall be available but the Ex-Spouse has failed to consent to an external transfer and the circumstances in Regulation 7(2) Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 have been satisfied and the Trustee has decided to make an external transfer under this paragraph;

the Trustee shall take the action set out in paragraph 4.2.

4.2 Where paragraph 4.1 is satisfied, the Trustee shall make a transfer of the Ex-Spouse's Pension Credit to a qualifying arrangement. A qualifying arrangement is one which is qualified under paragraph 6 of Schedule 5 Welfare Reform and Pensions Act 1999 and Regulation 11 Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 and is not disqualified under Regulations 12 to 15 of those Regulations. This power shall be in addition to the Trustee's power contained in Rule 50 in Schedule 2 (transfer to another pension scheme or insurance policy). If the Trustee makes a transfer in the manner specified in those regulations, it shall be discharged from liability to provide benefits to the Ex-Spouse under the Scheme.

4.3 If the Ex-Spouse dies before the Trustee has transferred or bought out his/her Pension Credit, the Trustee shall take such (one or more) of the following actions as it thinks fit:

- (a) provide a lump sum;
- (b) provide a pension;
- (c) purchase an annuity;

in respect of such one or more Dependants of the Ex-Spouse as it decides, save that any lump sum benefit shall be held on the discretionary trusts described in Rule 40 in Schedule 2 and in connection with that Rule relationships to the Member shall be read as relationships to the Ex-Spouse. Such benefits may only be provided to the extent that they constitute authorised payments for the purposes of the Finance Act 2004. The total value of such benefits shall not exceed that of the Pension Credit. If the Trustee is unable to deal with the Pension Credit in one of these ways, the Pension Credit shall cease to be payable. The Trustee shall comply with Regulation 6 Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 in this respect and, in particular, the provider of any annuity shall be such as to comply with Regulation 6(3) of those regulations.

The Trustee shall comply with the requirements of the Finance Act 2004 to ensure that any payment made in respect of an Ex-Spouse is an authorised member payment or a recognised transfer.

- 4.4 The Trustee shall have power to require the Ex-Spouse to supply details of the recipient arrangement to which his/her Pension Credit Rights are to be transferred under paragraph 4.2 above. If the Ex-Spouse fails to provide such information, he/she shall be deemed to have failed to consent for the purposes of paragraph 4.1(a) and (c) and the regulations referred to in those paragraphs.
- 4.5 After discharging its obligations under this paragraph 4, the Trustee shall provide the Ex-Spouse with a notice which complies with Regulation 8 Pensions on Divorce etc (Provision of Information) Regulations 2000.

5. **DEATH BEFORE PROVISION OF PENSION CREDIT BENEFIT**

If the Trustee has decided to allow the Ex-Spouse to become an Ex-Spouse Participant, but the Ex-Spouse dies before his/her benefits are secured under paragraph 6, the Pension Credit of the Ex-Spouse shall be dealt with under paragraph 4.3.

6. **INTERNAL TRANSFER – PENSION CREDIT BENEFIT**

6.1 If:

- (a) the Trustee has determined that internal transfers shall be available and the Ex-Spouse has decided to accept the award of benefits under this paragraph; or
- (b) the Trustee has determined that internal transfers shall be available but the Ex-Spouse has failed to consent to the award of benefits under this paragraph and the circumstances in Regulation 7(1) Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 have been satisfied and the Trustee has decided to award benefits under this paragraph;

the Trustee shall provide such benefits ("**Pension Credit Benefit**") in respect of the Ex-Spouse's Pension Credit as it shall decide subject to the basic principle that Pension Credit Benefit must comply with section 101C of the Pension Schemes Act 1993 (normal pension age must be between 60 and 65) and paragraph 5 of Schedule 5 Welfare Reform and Pensions Act 1999.

- 6.2 The Trustee can choose such style of final salary or money purchase benefits as it thinks fit. Nothing in this Schedule shall require the Trustee to provide any particular form of benefit or to provide the same kind of benefit to the Ex-Spouse Participant as applied to the Member or to the Ex-Spouse Participant in his/her capacity as a Member. The normal pension age applied to the benefit need not be the same as any normal pension age under the Scheme.
- 6.3 The value of the rights to Pension Credit Benefit shall be calculated and verified in accordance with Regulation 10 Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.
- 6.4 The Pension Credit Benefit shall increase in payment at the same rate and at the same times as other pensions provided by the Scheme in respect of service after 6 April 1997.



6.5 The Trustee shall ensure that the Pension Credit Benefit under the Scheme is treated separately from any other benefit of the Ex-Spouse Participant under the Scheme and shall ensure that such Pension Credit Benefit is separately identifiable as such.

6.6 The Ex-Spouse Participant shall be treated as a Member of the Scheme for such purposes under the Consolidated Deed as the Trustee so decides or as the 1995 Act requires.

## 7. **ALTERNATIVES TO PENSION CREDIT BENEFIT**

7.1 As an alternative to the provision of a Pension Credit Benefit, the Trustee may at its discretion decide to provide any of the following alternatives in respect of the Pension Credit Rights from which the Pension Credit Benefit is derived.

(a) Early or late benefit. The Trustee may provide a pension payable at any age between Minimum Retirement Age and 75 (or at any earlier age if the Ex-Spouse Participant is also a Member in his/her own right and receives an incapacity pension under Rule 23 (Ill-health) or Rule 37 (Total Incapacity) in Schedule 2 subject to such actuarial reduction or increase for early or late payment as the Trustee shall determine. Pensions under this paragraph shall be payable for life and may be guaranteed for the first five years of payment if the Trustee so decides.

(b) Where the Pension Credit Benefit is not a money purchase benefit, such money purchase benefits as the Trustee decides.

7.2 The alternative benefits specified in paragraph 7.1(a) shall not be available to an Ex-Spouse Participant where that Ex-Spouse Participant is also a Member in his/her own right unless the Ex-Spouse Participant exercises the corresponding right under the Rules in respect of the remainder of his/her benefits under the Scheme.

7.3 If the Ex-Spouse Participant dies before receiving the Pension Credit Benefit or one of the alternatives in paragraph 7.1 above, the Trustee may take such (one or more) of the following actions as it thinks fit:

- (i) provide a lump sum;
- (ii) provide a pension;
- (iii) purchase an annuity;

in respect of such one or more Dependants of the Ex-Spouse Participant as it decides, save that any lump sum benefit shall be held on the discretionary trusts described in Rule 40 in Schedule 2 and in connection with that Rule relationships to the Member shall be read as relationships to the Ex-Spouse Participant. Such benefits may only be provided to the extent that they constitute authorised payments for the purposes of the Finance Act 2004. The total value of such benefits shall not exceed that of the Pension Credit Benefit. The Trustee need only provide a benefit under this paragraph if the terms on which the Pension Credit Benefit was set up are such as to require one. If the Trustee has decided to provide a benefit under this paragraph but is unable to deal with the benefit in one of these ways, the benefit shall cease to be payable. The Trustee shall comply with Regulation 6 Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 in this respect as if it related to Pension Credit Benefit or alternatives thereto and, in particular, the provider of any annuity shall be such as to comply with Regulation 6(3) of those regulations.

The Trustee shall comply with the requirements of the Finance Act 2004 to ensure that any payment made in respect of an Ex-Spouse is an authorised member payment or a recognised transfer.

- 7.4 The Trustee shall have power to set up alternatives to Pension Credit Benefit which include survivor benefits. If the Trustee does this, then on the death of the Ex-Spouse Participant who is in receipt of benefits, the Trustee may make payments to:
- (a) the widow, widower or surviving Civil Partner of the Ex-Spouse Participant;
  - (b) any other person in accordance with a direction from the Ex-Spouse Participant;
  - (c) the Ex-Spouse Participant's estate.

The Trustee shall comply with the requirements of the Finance Act 2004 to ensure that any payment made in respect of an Ex-Spouse is an authorised member payment or a recognised transfer.

The amount of the pension payable under this paragraph is limited to a maximum of 2/3rds of the initial annual pension which was paid to the Ex-Spouse Participant as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension. Where more than one pension is to be paid the total of all the pensions shall not exceed the amount of the initial annual pension which was paid to the Ex-Spouse Participant, as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension. For the purpose of determining the pension which could have been paid to the Ex-Spouse Participant, it shall be assumed that he/she had reached Minimum Retirement Age at the date of death where he/she in fact died at an earlier age. Pensions must be payable for life except that children's pensions shall cease on attaining 18 or, if remaining in full time education or vocational training, age 23.

- 7.5 If the Pension Credit Benefit or alternative thereto included a guaranteed period of payment, then on the death of the Ex-Spouse Participant, a lump sum shall be payable to one or more recipients selected by the Trustee from the class of relatives and dependants (as defined in Rule 40 in Schedule 2) of the Ex-Spouse Participant.
- 7.6 In deciding the alternative to the Pension Credit Benefit which it will provide, the Trustee shall ensure that the total value of the benefits or the money purchase benefits provided, in each case as an alternative to the Pension Credit Benefit, is at least equal to the value of the benefits that have accrued to the Ex-Spouse Participant (ie the Pension Credit Rights).
- 7.7 The consent of the Ex-Spouse Participant will be required to the exercise of the Trustee's powers under paragraphs 7.1 or 7.4 except where that consent is not required under Regulations 7(4) and 8(4) Pension Sharing (Pension Credit Benefit) Regulations 2000.
- 7.8 If the Trustee opts to provide a pension under the Scheme as part of the alternative to the Pension Credit Benefit, that pension shall increase in payment at the same rate as other pensions provided under the Scheme in respect of service after 6 April 1997.

## 8. **COMMUTATION**

- 8.1 Pension Credit Benefit under paragraph 6.1 or any alternative thereto under paragraphs 7.1 or 7.4 may be commuted (when it comes into payment) for a lump sum or, if the Scheme generally permits surrender for the purchase of additional survivor benefits, additional survivor benefits. The factors to be used by the Trustee for the commutation

shall be those used for Rule 24 in Schedule 2 (commutation of pension) or such other factors as the Trustee decides.

The Trustee shall comply with the requirements of the Finance Act 2004 to ensure that any payment made to an Ex-Spouse Participant under this paragraph 8 is an authorised member payment.

In particular:

- (a) Any lump sum commuted when an Ex-Spouse Participant's pension comes into payment must be a pension commencement lump sum for the purposes of Schedule 29 to the Finance Act 2004.
- (b) A pension commencement lump sum will not be available to an Ex-Spouse Participant if the Member has already received a lump sum retirement benefit from the Scheme under Rule 24(a) in Schedule 2 in respect of his current or last period of active membership before the date the Trustee implements the Pension Sharing Order. Neither will this option be available where (and to the extent that) the Pension Credit Rights in respect of which the alternative benefits are being offered have been transferred into the Scheme with a certificate specifying that no lump sum may be payable and where that certificate still applies. Where commutation to provide additional survivor benefits has taken place, the amount of pension surrendered must not exceed the remaining pension payable to the Ex-Spouse Participant.

8.2 Pension Credit Benefit under paragraph 6.1 or any alternatives thereto under paragraphs 7.1 or 7.4 may be commuted (when they come into payment) where Regulation 3 Pension Sharing (Pension Credit Benefit) Regulations 2000 applies.

## 9. ANNUITY

9.1 When the Pension Credit Benefit under paragraph 6.1 or alternative thereto under paragraphs 7.1 or 7.4 comes into payment, the Ex-Spouse Participant may require the Trustee to purchase an annuity securing such benefits as the Trustee decides, bought in the name of the Ex-Spouse Participant from an Insurance Company. This benefit may only be provided where the requirements of:

- (a) section 19 and section 101D(1)(b) of the Pension Schemes Act 1993 and Regulations 5, 12, 13 and 14 Pensions Sharing (Pension Credit Benefit) Regulations 2000 (for Pension Credit Benefit); or
- (b) Regulation 8 Pensions Sharing (Pension Credit Benefit) Regulations 2000 (for alternatives to Pension Credit Benefit);

are satisfied.

9.2 At any time, the Trustee may, without the consent of the Ex-Spouse Participant, purchase an annuity securing an Ex-Spouse Participant's Pension Credit Benefit under paragraph 6.1 or alternative thereto under paragraphs 7.1 or 7.4. Such annuity shall be purchased in the name of the Ex-Spouse Participant from an Insurance Company. This benefit may only be provided where the requirements of:

- (a) section 101E(1) of the Pension Schemes Act 1993 and Regulation 15 Pensions Sharing (Pension Credit Benefit) Regulations 2000 (for Pension Credit Benefit); or

- (b) Regulations 8 and 11 Pensions Sharing (Pension Credit Benefit) Regulations 2000 (for alternatives to Pension Credit Benefit);

are satisfied.

**10. FORFEITURE**

Rules 54 (Claiming of Deferred and Paid-up Pensions), 59 (Protective Trusts) and 59A (Set-off) in Schedule 2 shall apply to Pension Credit Benefit under paragraph 6.1 or alternatives thereto under paragraphs 7.1 or 7.4.

**11. TRANSFER ALTERNATIVE**

- 11.1 In the circumstances set out in sections 101F to 101Q of the Pension Schemes Act 1993, an Ex-Spouse Participant may give a transfer notice to the Trustee requiring the transfer of the cash equivalent transfer value of the Pension Credit Rights from which his/her Pension Credit Benefit is derived to a Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme of which the Ex-Spouse Participant is a member or under which the Ex-Spouse Participant has Pension Credit Benefit.

The cash equivalent transfer value shall be calculated and may be reduced in accordance with those sections of the Pension Schemes Act 1993 and with the Regulations 16 to 31 Pension Sharing (Pension Credit Benefit) Regulations 2000. On payment of the cash equivalent to the other arrangement, the Trustee shall be discharged of all liability to the Ex-Spouse Participant in respect of his/her Pension Credit Rights.

- 11.2 Where the Ex-Spouse Participant is also a Member of the Scheme in his/her own right, this power shall not be exercised unless the Ex-Spouse Participant also elects to transfer the value of his/her other benefits under the Scheme to the receiving arrangement or to another arrangement, in accordance with sections 93 to 98 of the Pension Schemes Act 1993. Similarly, where an Ex-Spouse Participant elects to transfer the value of his/her benefits under the Scheme to another arrangement under sections 93 to 98 of the Pension Schemes Act 1993, no such transfer shall be made unless he/she also elects to make a transfer under paragraph 11.1 above.

- 11.3 In the circumstances set out in sections 101D(2) and (4) of the Pension Schemes Act 1993 and Regulation 10 Pension Sharing (Pension Credit Benefit) Regulations 2000, the Trustee may transfer the cash equivalent transfer value of the Pension Credit Rights of an Ex-Spouse Participant to another Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme.

**12. NO PARAGRAPH**

**13. NO PARAGRAPH**

**14. TRANSFERS IN**

- 14.1 The Trustee may accept transfers from other arrangements which consist of or include Pension Credit Rights or benefits derived therefrom where the transferring person is a Member or Ex-Spouse Participant under the Scheme. That person shall then become an Ex-Spouse Participant in relation to the Pension Credit Rights transferred and the provisions of this Schedule shall apply as if the Pension Credit Rights transferred derived from benefits under the Scheme. The Trustee shall, however, keep such Pension Credit Rights separately identified from any other rights of the person under the Scheme.

- 14.2 The Trustee may accept transfers from other arrangements where the benefit transferred has been reduced by a Pension Debit.

15. **WINDING-UP**

The winding up priorities of the Scheme shall be deemed altered in the manner specified in section 38 Welfare Reform and Pensions Act 1999.

16. **INFORMATION**

- 16.1 The Trustee shall comply with the Pensions on Divorce etc (Provision of Information) Regulations 2000 and shall provide information to a Member or his/her Ex-Spouse in accordance with those regulations.

- 16.2 The Trustee shall give full details of the Pension Debit to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme.

17. **TRUSTEE'S OBLIGATIONS**

No paragraph in this Schedule shall be taken to impose a greater duty on the Trustee than is imposed by the relevant statute or statutory instrument from which the paragraph derives. The Trustee shall not be liable for a breach of any of the paragraphs in this Schedule except to the extent that it is liable under the relevant statute or statutory instrument and the penalty for non-compliance shall not exceed that set out in the relevant statute or statutory instrument. In particular, it shall not be a breach of trust if the Trustee fails to comply with this Schedule. Where the Trustee takes any action without the consent of the Ex-Spouse, they shall not be responsible for any consequent loss except where any statute prohibits the exclusion of liability in this way.

18. **DEFINITIONS**

The following words and phrases shall have the following meanings where used in this Schedule:

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

**"Ex-Spouse Participant"** means an Ex-Spouse who participates in the Scheme by virtue of having been granted a Pension Credit Benefit or an alternative thereto.

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

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

**"Pension Credit Benefit"** means the benefits payable under the Scheme to or in respect of a person by virtue of his/her Pension Credit Rights.

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

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

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

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

**"Section 9(2B) Rights"** has the meaning given to it in the Occupational Pension Schemes (Contracting-out) Regulations 1996.