

DRAFT

No. [●] of 2011

IN THE COURT OF SESSION, SCOTLAND

**STANDARD LIFE INVESTMENT FUNDS LIMITED**

and

**STANDARD LIFE ASSURANCE LIMITED**

---

**SCHEME**

**for the transfer to Standard Life Assurance Limited of all of the  
business of Standard Life Investment Funds Limited  
(pursuant to Part VII of the Financial Services and Markets  
Act 2000)**

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## PART A - DEFINITIONS AND INTERPRETATION

### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Scheme, the following expressions bear the meanings respectively set opposite them:

<b>“Actuarial Function Holder”</b>	the person appointed by a company from time to time to perform the actuarial function and duties as set out in SUP 4.3.13R in respect of that company;
<b>“Board”</b>	in respect of a company, the board of directors from time to time of that company;
<b>“Charge Documents”</b>	the Property-Linked Floating Charge and the Security Trust Agreement, in each case as amended at, and with effect from, the Effective Date in accordance with <u>paragraph 5.6</u> ;
<b>“Court”</b>	the Court of Session in Scotland;
<b>“CTA 2010”</b>	the Corporation Tax Act 2010;
<b>“Effective Date”</b>	the time and date on which this Scheme shall become effective in accordance with <u>paragraph 18</u> ;
<b>“Encumbrance”</b>	any mortgage, charge, pledge, assignation in security, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind and any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;
<b>“Equivalent Attribution”</b>	has the meaning given to it in <u>paragraph 14.1(A)</u> ;
<b>“Excluded Assets”</b>	all rights, benefits or powers of SLIF under or by virtue of:  (A) each Excluded Reinsurance Agreement; and  (B) the Non-Linked Floating Charge;
<b>“Excluded Liabilities”</b>	all liabilities under, in respect of, or attributable to:  (A) each Excluded Reinsurance Agreement; and  (B) the Non-Linked Floating Charge;
<b>“Excluded Reinsurance”</b>	each reinsurance agreement to which SLIF is party;

<b>Agreement</b>	<p>(A) which is in respect of reinsurance which SLIF has accepted or agreed to accept;</p> <p>(B) under which any liability remains unsatisfied or outstanding on the Effective Date;</p> <p>(C) which is comprised in the Transferred Business; and</p> <p>(D) the rights, benefits, powers and liabilities under which are not capable on the Effective Date of being transferred by this Scheme;</p>
<b>“FA 2004”</b>	the Finance Act 2004;
<b>“FSA Handbook”</b>	the FSA Handbook of rules and guidance issued by the Insurance Regulator;
<b>“FSMA”</b>	the Financial Services and Markets Act 2000;
<b>“GENPRU”</b>	the General Prudential sourcebook issued by the Insurance Regulator;
<b>“Group”</b>	in respect of a person, that person, its subsidiaries and subsidiary undertakings, any holding company of that person and all other subsidiaries and subsidiary undertakings of any such holding company from time to time, and <b>“SLAL Group”</b> and <b>“SLIF Group”</b> shall be construed accordingly;
<b>“HMRC”</b>	Her Majesty’s Revenue & Customs;
<b>“HWPF Policy”</b>	a Policy written in or allocated to the SLAL HWPF in each case immediately prior to the Effective Date;
<b>“ICTA”</b>	the Income and Corporation Taxes Act 1988;
<b>“Independent Expert”</b>	Mr. John McKenzie, the expert nominated and approved pursuant to section 109(2) of FSMA and appointed in connection with this Scheme, or any person so nominated, approved and appointed in substitution of Mr. John McKenzie in the event of a vacancy occurring by reason of his death, incapacity or resignation;
<b>“Index-Linked Policy”</b>	any Policy which falls within paragraph III of Part II of Schedule 1 to the Regulated Activities Order in respect of which the benefits payable are determined by reference to an index of the value of property of any description

(whether specified in the Policy or not);

<b>“INSPRU”</b>	the Prudential sourcebook for Insurers issued by the Insurance Regulator;
<b>“Insurance Regulator”</b>	the Financial Services Authority, or such other governmental, statutory or other authority as shall from time to time carry out such functions in relation to Long-Term Business carried on in the United Kingdom as were at the date of this Scheme allocated to the Financial Services Authority under FSMA;
<b>“Investment Element”</b>	has the meaning given to it in <u>paragraph 14.4</u> ;
<b>“Linked Fund”</b>	an internal linked fund established and maintained for accounting purposes by SLIF (before the Effective Date) or SLAL (before, on or after the Effective Date) to enable benefits payable under Linked Policies to be calculated, other than benefits determined by reference to the value of With Profits Units, and <b>“SLIF Linked Fund”</b> and <b>“SLAL Linked Fund”</b> shall be construed accordingly;
<b>“Linked Policy”</b>	(A) any Index-Linked Policy; and  (B) any Property-Linked Policy;
<b>“Linked Reinsurance Agreements”</b>	the SLIF EB ULL Reinsurance Agreement and the SLIF EB ULP Reinsurance Agreement;
<b>“Listed Reinsurance Agreements”</b>	the agreements set out in Schedule 1 to this Scheme, in each case as varied;
<b>“Long-Term Business”</b>	the business of effecting or carrying out Long-Term Insurance Contracts;
<b>“Long-Term Insurance Contracts”</b>	contracts falling within classes of long term insurance business as set out in Part II of Schedule 1 to the Regulated Activities Order;
<b>“Long-Term Insurance Fund”</b>	has the meaning given to it in INSPRU 1.5.22R;
<b>“Mathematical Reserves”</b>	has the meaning given to it in the Glossary to the FSA Handbook;
<b>“Non-Linked Floating Charge”</b>	the non-linked floating charge securing the non-linked liabilities of SLIF under certain Non-Linked Reinsurance Contracts (as that term is defined in that charge), dated 12

October 2006 and entered into by SLIF, as chargor, and the Law Debenture Trust Corporation p.l.c., as chargee in its capacity as security trustee for SLAL and SLPF as beneficiaries;

**“Order”** an order to be made by the Court pursuant to section 111 of FSMA sanctioning this Scheme and any order (including any subsequent order) in relation to this Scheme made by the Court pursuant to section 112 of FSMA;

**“Paragraph 24”** has the meaning given to it in paragraph 14.2(A);

**“Paragraph 39”** has the meaning given to it in paragraph 12.4(C);

**“Personnel”** in respect of a person:

- (A) the Actuarial Function Holder in respect of that person;
- (B) the officers and employees of that person; and
- (C) the agents of that person, including those agents to whom the administration or investment management of the business, or part of the business, of that person is delegated,

in each case from time to time;

**“Policy”**

- (A) any “policy” within the meaning of the Financial Services and Markets Act (Meaning of “Policy” and “Policyholder”) Order 2001 (SI 2001/2361); and
- (B) any constituent part of such a policy which, in the opinion of the SLAL Board (having regard to the advice of the SLAL With-Profits Actuary) gives rise to any separately identifiable benefit and which the SLAL Board (having regard to the advice of the SLAL With-Profits Actuary) determines is a Policy;

**“Principle 6”** Principle 6 in the Principles for Businesses set out in the FSA Handbook;

**“Property-Linked Floating Charge”** the property-linked floating charge securing the property-linked liabilities of SLIF under certain Property-Linked Reinsurance Contracts (as that term is defined in that charge), dated 12 October 2006 between SLIF, as chargor, and The Law Debenture Trust Corporation p.l.c. as chargee in its capacity as security trustee for the

Property-Linked Beneficiaries (as such term is defined in the charge);

- “Property-Linked Policy”** any Policy which falls within paragraph III of Part II of Schedule 1 to the Regulated Activities Order in respect of which the benefits payable are determined by reference to the value of, or the income from, property of any description (whether or not specified in the Policy) but excluding any Index-Linked Policy;
- “Records”** all books and records containing, or relating to, information in respect of the Transferred Business, or on which such information is recorded (including without limitation all documents and other material (whether human or computer or machine readable)), in each case which are in the possession of, or under the control of, SLIF;
- “Regulated Activities Order”** the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544);
- “Relevant Policy”** each Property-Linked Policy that is:
- (A) written in the United Kingdom or the Republic of Ireland; and
  - (B) written in, allocated to or reinsured by the SLAL HWPF in accordance with the 2006 Scheme,
- save for the Policy known as the “Unit Endowment Policy”;
- “Required Capital”** such property (if any) as the SLIF Board determines as being necessary to ensure that SLIF is able to satisfy applicable capital resources requirements (including as set out in GENPRU 2.1.17R to GENPRU 2.1.23R, both inclusive) in relation to its Long-Term Business immediately after the Effective Date;
- “Residual Assets”**
- (A) any property of SLIF to be transferred pursuant to this Scheme:
    - (i) which is not capable of being transferred to SLAL at the Effective Date pursuant to this Scheme by virtue of the fact that such transfer would (as at the Effective Date):
      - (a) require the consent of any person (other than SLIF, SLAL, any other member of the SLAL Group or the Court); or

- (b) require the waiver by any person of any right to acquire, or be offered the right to, or to offer to, acquire or procure the acquisition by some other person of, all or any part of such property, being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
- (c) result in a third party having a right to terminate an agreement with SLIF or claim compensation in damages or otherwise; and
- (ii) which the Court determines, notwithstanding section 112(2)(a) of FSMA, not so to transfer to SLAL at the Effective Date or in respect of which the Court makes an order under section 112A(1) of FSMA containing any provision under section 112A(2)(b) of FSMA;
- (B) any property of SLIF whose transfer pursuant to this Scheme SLIF and SLAL agree in writing prior to the Effective Date should be delayed;
- (C) any Required Capital; and
- (D) any substituting property, proceeds of sale or income, distribution or other accrual or return whatsoever, whether or not in any case in the form of cash, in each case which is earned, received or obtained in respect of (or in substitution of) any property referred to in paragraphs (A), (B), or (C) of this definition by SLIF from time to time after the Effective Date but prior to any relevant Subsequent Transfer Date;

**“Residual Liabilities”**

any liability whatsoever of SLIF to be transferred under this Scheme:

- (A) which is attributable to, or connected with, a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to that Residual Asset; or

- (B) which:
- (i) is not capable of being transferred to SLAL at the Effective Date pursuant to this Scheme by virtue of the fact that such transfer would (as at the Effective Date) require the consent or waiver of any person (other than SLIF, SLAL, any other member of the SLAL Group or the Court); and
  - (ii) which the Court determines, notwithstanding section 112(2)(a) of FSMA, not so to transfer to SLAL at the Effective Date;

<b>“this Scheme”</b>	this Scheme in its original form or with or subject to any variation or condition which may be approved, or imposed, in accordance with <u>paragraph 19</u> ;
<b>“Security Trust Agreement”</b>	the security trust agreement entered into in connection with the Non-Linked Floating Charge and the Property-Linked Floating Charge between The Law Debenture Trust Corporation p.l.c. (as security trustee), SLIF, SLAL and others dated 12 October 2006 and as amended and restated on 27 November 2007;
<b>“SLAC”</b>	The Standard Life Assurance Company 2006, previously known as The Standard Life Assurance Company (being a company incorporated in Scotland by Act of Parliament and with registered number SZ4);
<b>“SLAL”</b>	Standard Life Assurance Limited, a company incorporated in Scotland with registered number SC286833, whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH;
<b>“SLAL AFH”</b>	the Actuarial Function Holder of SLAL;
<b>“SLAL Board”</b>	the Board of SLAL;
<b>“SLAL Fund”</b>	any of the SLAL SHF and the Long-Term Insurance Funds of SLAL;
<b>“SLAL HWPF”</b>	the Long-Term Insurance Fund of SLAL known at the Effective Date as the “Heritage With Profits Fund”, being the fund referred to in the 2006 Scheme as the “With

	Profits Fund”;
<b>“SLAL PBF”</b>	the Long-Term Insurance Fund of SLAL known at the Effective Date as the “Proprietary Business Fund”, being the fund referred to in the 2006 Scheme as the “Non Profit Fund”;
<b>“SLAL SHF”</b>	the property and liabilities of SLAL excluding those allocated or attributable to, or represented by, a Long-Term Insurance Fund, being the fund referred to in the 2006 Scheme as the “Shareholder Fund”;
<b>“SLAL With-Profits Actuary”</b>	the person appointed by SLAL from time to time to perform the with-profits actuary function as set out in SUP 4.3.16A R;
<b>“SLIF”</b>	Standard Life Investment Funds Limited, a company incorporated in Scotland with registered number SC068442, whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH;
<b>“SLIF AFH”</b>	the Actuarial Function Holder of SLIF;
<b>“SLIF Board”</b>	the Board of SLIF;
<b>“SLIF EB Annuities Reinsurance Agreement”</b>	the agreement entitled “Reinsurance Agreement: Existing Business (Annuities)” entered into between SLAL (as Reinsured) and SLIF (as Reinsurer) and dated 7 July 2006 (as varied);
<b>“SLIF EB ULL Reinsurance Agreement”</b>	the agreement entitled “Reinsurance Agreement: UK and Republic of Ireland Unit-Linked Life” entered into between SLAC (as Reinsured) and SLIF (as Reinsurer) dated 7 July 2006 (as varied), which agreement was transferred from SLAC to SLAL under and subject to the terms of the 2006 Scheme;
<b>“SLIF EB ULP Reinsurance Agreement”</b>	the agreement entitled “Reinsurance Agreement: UK and Republic of Ireland Unit-Linked Pensions” entered into between SLAC (as Reinsured) and SLIF (as Reinsurer) dated 28 April 2006 (as varied), which agreement was transferred from SLAC to SLAL under and subject to the terms of the 2006 Scheme;
<b>“SLIF SHF”</b>	the property and liabilities of SLIF excluding those allocated or attributable to, or represented by, a Long-Term Insurance Fund;

<b>“SLIF Surplus”</b>	the excess of the value of the Long-Term Insurance Fund of SLIF over its Mathematical Reserves, in each case as calculated as at the Effective Date;
<b>“SLPF”</b>	Standard Life Pension Funds Limited, a company incorporated in Scotland with limited liability, with registered number SC046447 and whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh, EH1 2DH;
<b>“Stop-Loss Agreement”</b>	the agreement entitled “Stop-Loss Retrocession Agreement” between SLAL (as retrocessionaire) and SLIF (as retrocedant) dated 7 July 2006;
<b>“Subsequent Transfer Date”</b>	<p>in relation to any Residual Asset or Residual Liability, the date after the Effective Date on which such Residual Asset or Residual Liability (as the case may be) is to be transferred to SLAL, namely:</p> <p>(A) in respect of any Residual Asset falling within <u>paragraphs A(i)(a) and (A)(ii), or A(i)(b) and A(ii)</u>, of the definition thereof, and (to the extent applicable) in respect of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within <u>paragraphs (B)(i) and (B)(ii)</u> of the definition of Residual Liability, the date on which the requisite consent or, where applicable, the requisite waiver to enable the same to be transferred to SLAL is (i) obtained; (ii) no longer required; or (iii) dispensed with by order of the Court;</p> <p>(B) in respect of any Residual Asset falling within <u>paragraphs (A)(i)(c) and A(ii)</u> of the definition thereof and (to the extent applicable) in respect of any Residual Liability which is attributable to or connected with that Residual Asset, the date on which the right to terminate or claim compensation in damages or otherwise (i) lapses; or (ii) is waived;</p> <p>(C) in respect of any Residual Asset falling within <u>paragraph (B)</u> of the definition thereof, and (to the extent applicable) in respect of any Residual Liability which is attributable to or connected with that Residual Asset, the date agreed in writing by SLIF and SLAL;</p>

- (D) in respect of any Required Capital (and in respect of any Residual Liability attributable thereto or connected therewith) the date on which the SLIF Board determines that such property is no longer required to be retained by SLIF in order for SLIF to satisfy applicable capital resources requirements (including as set out in GENPRU 2.1.17R to GENPRU 2.1.23R inclusive) in relation to its Long-Term Business; and
- (E) in respect of any Residual Asset falling within paragraph (D) of the definition thereof (and in respect of any Residual Liability attributable thereto or connected therewith), the Subsequent Transfer Date specified in paragraph (A), (B), (C) or (D) of this definition (as the case may be);

**“SUP”**

the Supervision Manual issued by the Insurance Regulator;

**“Tax” or “Taxation”**

all forms of tax, duty, rate, levy, charge or other imposition or withholding in the nature of tax whenever or by whatever authority imposed and whether of the United Kingdom or elsewhere, including any tax on gross or net income, profit or gains, income tax required to be deducted or withheld from or accounted for in respect of any payment, corporation tax, capital gains tax, inheritance tax, wealth taxes, value added tax, customs duties, excise duties, insurance premium tax, rates (including the uniform business rate), stamp duty, capital duty, stamp duty reserve tax, stamp duty land tax, PAYE, national insurance and other similar contributions, any payments in respect of policyholder taxation, any liability arising under Section 455 of CTA 2010, Part 4 of FA 2004, Section 746 of CTA 2010 or Section 747 of ICTA and any other taxes, duties, rates, levies charges, imposts or withholdings corresponding to, similar to, in the nature of, replaced by or replacing any of them together with any interest, penalty or fine in connection with any taxation and regardless of whether any such taxes, duties, rates, levies, charges, imposts, withholdings, interest, penalties or fines are chargeable directly on SLIF or any other person and of whether any amount in respect of them is recoverable from any other person;

**“Tax Asset”**

any Transferred Asset or Residual Asset (or in each case part thereof) in each case which is in respect of or

attributable to Taxation;

**“Tax Liability”**

- (A) any Transferred Liability or Residual Liability (or in each case part thereof); and
- (B) any liability to discharge on SLIF's behalf or, failing that, to indemnify SLIF pursuant to paragraph 9.1,

in each case which is in respect of or attributable to Taxation;

**“Transferred Assets”**

all property of SLIF immediately prior to the Effective Date (wherever situated) in respect of, or attributable, to the Transferred Business, including without limitation all of the following whatsoever and wheresoever situated immediately prior to the Effective Date:

- (A) the rights, benefits and powers of SLIF under or by virtue of the Transferred Reinsurance Agreements;
- (B) the Records and all rights, title and interest of SLIF in the Records;
- (C) all assets held by SLIF in respect of its liabilities under any Excluded Reinsurance Agreement;
- (D) all rights and claims (whether present, future, actual or contingent) against any third party in relation to the Transferred Business or arising as a result of SLIF having carried on the Transferred Business;
- (E) the rights, benefits and powers of SLIF under or by virtue of any contracts or arrangements (other than the Transferred Reinsurance Agreements) in respect of the Transferred Business, including without limitation the Stop-Loss Agreement, any other agreements in respect of reinsurance ceded or retrocession ceded and any investment agreements with managers of mutual funds; and
- (F) the rights, benefits and powers of SLIF under or by virtue of any charges or security in respect of the Transferred Business (including without limitation the Charge Documents),

but excluding in each case: (i) the Residual Assets; and (ii)

the Excluded Assets;

**“Transferred Business”** the whole of the business and undertaking of SLIF (including its Long-Term Business) immediately prior to the Effective Date, including all activities carried on in connection with, or for the purposes of, that business;

**“Transferred Liabilities”** all liabilities of SLIF immediately prior to the Effective Date in respect of, or attributable to, the Transferred Business, including, without limitation:

(A) all liabilities under, in respect of or attributable to the Transferred Reinsurance Agreements;

(B) all liabilities under, in respect of or attributable to any contracts or arrangements (other than the Transferred Reinsurance Agreements) in respect of the Transferred Business, including without limitation the Stop-Loss Agreement, any other agreements in respect of reinsurance ceded or retrocession ceded and any investment agreements with managers of mutual funds; and

(C) all liabilities under, in respect of or attributable to any charges or security in respect of the Transferred Business (including without limitation the Charge Documents),

but excluding: (i) the Residual Liabilities; and (ii) the Excluded Liabilities;

**“Transferred Reinsurance Agreements”**

any reinsurance agreement to which SLIF is party:

(A) which is in respect of reinsurance which SLIF has accepted or agreed to accept;

(B) under which any liability remains unsatisfied or outstanding on the Effective Date; and

(C) which is comprised in the Transferred Business,

including without limitation the Listed Reinsurance Agreements, but excluding the Excluded Reinsurance Agreements;

**“Trust Property”**

has the meaning given to it in paragraph 8.1;

- “UL Investment Element”** has the meaning given to it in paragraph 14.4;
- “With Profits Units”** notional units whose value or number vary by reference to premiums paid, bonuses declared or surpluses distributed in each case as determined by SLAL for the purposes of calculating benefits under Policies; and
- “2006 Scheme”** the scheme pursuant to Part VII of, and Schedule 12 to, FSMA, under which substantially all of the Long-Term Business of SLAC was transferred to SLAL and which became effective on 10 July 2006.

1.2 In this Scheme:

- (A) **“costs”** includes costs, charges and expenses;
- (B) **“property”** includes (without limitation) property, assets, rights, benefits and powers of every description (in each case whether present or future, actual or contingent), including property held on trust and securities, and any interest whatsoever in any of the foregoing;
- (C) **“liabilities”** includes (without limitation) liabilities, duties and obligations of every description (in each case whether present or future, actual or contingent);
- (D) **“transfer”** includes (as the context may require) “vest”, “assign”, “dispose” or “convey” and grammatical variations of such terms shall be construed accordingly;
- (E) any reference to the singular shall include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine and neuter and vice versa;
- (F) any reference to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation;
- (G) any reference to any rules, regulations or guidance issued by the Insurance Regulator shall be deemed to include a reference to such rules, regulations or guidance as amended, modified, supplemented or replaced from time to time;
- (H) the expressions **“holding company”**, **“subsidiary”** and **“subsidiary undertaking”** shall have the same meanings as in the Companies Act 2006;
- (I) except where the context specifically provides otherwise, references to paragraphs and Parts are to paragraphs and Parts of this Scheme;

- (J) headings are inserted for convenience only and shall not affect the construction of this Scheme;
- (K) any reference to a person shall include a reference to a body corporate, a partnership (whether or not having separate legal personality), an unincorporated association or to a person's executors or administrators, and for the avoidance of doubt, shall include a trustee;
- (L) if a period of time is specified from a given day or date or from the day or date of an actual event, it shall be calculated exclusive of that day or date;
- (M) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (N) the expression "**variation**" shall include any amendment, modification, variation, supplement, deletion, restatement, replacement or termination (as the context requires), however effected, and grammatical variations of that term shall be construed accordingly; and
- (O) any reference to an amount shall be exclusive of any applicable value added taxation.

## **PART B – INTRODUCTION**

### **2. INTRODUCTION**

- 2.1 SLIF is a company incorporated in Scotland with registered number SC068442. The registered office of SLIF is Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH.
- 2.2 SLAL is a company incorporated in Scotland with registered number SC286833. The registered office of SLAL is Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH.
- 2.3 Each of SLIF and SLAL is an authorised person for the purposes of FSMA. Each of SLIF and SLAL has a permission under Part IV of FSMA to carry on Long-Term Business of the same classes as the Transferred Business.
- 2.4 It is proposed that the whole of the Transferred Business, the Transferred Assets, the Transferred Liabilities, the Residual Assets and the Residual Liabilities shall, on the terms of and in accordance with this Scheme, be transferred to SLAL, and that an Order be made accordingly for the sanction of this Scheme under section 111(1) of FSMA and that, by the Order, provision be made, as hereinafter appearing, for, among other matters, the transfers from SLIF to SLAL, pursuant to section 112(1) of FSMA.
- 2.5 SLIF and SLAL have each agreed to appear by Counsel at the hearing of the application to sanction this Scheme, to undertake to be bound thereby and to execute all such documents and to do all such acts and things as may be necessary or expedient to be executed or done by it for the purposes of giving effect to this Scheme.

**PART C – TRANSFER****3. TRANSFER OF BUSINESS, ASSETS AND LIABILITIES**

- 3.1 On and with effect from the Effective Date, the Transferred Business shall be transferred to SLAL subject to and in accordance with this Part C (Transfer).
- 3.2 On and with effect from the Effective Date each Transferred Asset and, in each case, all the title and interest of SLIF in it shall, by the Order and without any further act or instrument, be transferred to, and be vested in, SLAL, subject to all Encumbrances (if any) affecting it.
- 3.3 Without prejudice to the transfer to SLAL of all rights, title and interest of SLIF in the Records on the Effective Date in accordance with paragraph 3.2, delivery of the Records by SLIF to SLAL shall occur as soon as reasonably practicable after the Effective Date as SLIF and SLAL shall agree.
- 3.4 On and with effect from the Effective Date, each Transferred Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of SLAL and shall cease to be a liability of SLIF.
- 3.5 The transfer under this Scheme of the Transferred Business, each Transferred Asset and each Transferred Liability shall, by the Order and without any further act or instrument, prevail over and take effect notwithstanding:
- (A) any requirement that would otherwise exist for the consent or waiver of any person (other than the Court) to the transfer; and
  - (B) any right that any third party would otherwise have to terminate an agreement with SLIF or claim compensation in damages or otherwise in each case as a result of the transfer.
- 3.6 On and with effect from each Subsequent Transfer Date, each Residual Asset to which such Subsequent Transfer Date applies and all the interest of SLIF in it shall, by the Order and without any further act or instrument, be transferred to, and be vested in, SLAL subject to all Encumbrances (if any) affecting it.
- 3.7 On and with effect from each Subsequent Transfer Date, each Residual Liability to which such Subsequent Transfer Date applies shall, by the Order and without any further act or instrument, be transferred to, and become a liability of, SLAL and shall cease to be a liability of SLIF.
- 3.8 SLAL shall accept without investigation or requisition such title as SLIF shall have at the Effective Date to the Transferred Assets and, at any Subsequent Transfer Date, to the Residual Assets then transferred.
- 3.9 Without prejudice to any other provision of this Scheme, SLIF and SLAL shall each take all such steps and do all such things (including the execution and delivery of any

documents) as may be required to effect or perfect the transfer to, and vesting in, SLAL of the Transferred Business, any Transferred Asset, any Transferred Liability, any Residual Asset and any Residual Liability (together with any rights, benefits, powers and liabilities under, in respect of or attributable to any Excluded Reinsurance Agreement that is subsequently novated to SLAL pursuant to paragraph 6.5) in accordance with the terms of this Scheme.

- 3.10 Without prejudice to paragraph 6.5, none of the Excluded Assets or Excluded Liabilities shall be transferred to or vested in SLAL under the terms of this Scheme.
- 3.11 The Transferred Assets, Residual Assets, Transferred Liabilities and Residual Liabilities (together with all other property and liabilities to be allocated under this Scheme) shall be allocated in accordance with Part D (Allocations and Costs).

#### **4. CONTINUITY OF PROCEEDINGS**

- 4.1 On and with effect from the Effective Date, any proceedings which are pending by, or against, SLIF under, or in connection with, the Transferred Business, the Transferred Assets or the Transferred Liabilities shall be continued by, or against, SLAL and SLAL shall be entitled to all defences, claims, counterclaims and rights of set-off and all other remedies that were or would have been available to SLIF in relation to those proceedings.
- 4.2 On and with effect from the Subsequent Transfer Date applicable thereto, any proceedings which are pending by, or against, SLIF in connection with the Residual Assets or the Residual Liabilities which are to be transferred on such Subsequent Transfer Date shall be continued by, or against, SLAL and SLAL shall be entitled to all defences, claims, counterclaims and rights of set-off and all other remedies that were, or would have been, available to SLIF in relation to those proceedings. Until such Subsequent Transfer Date, the relevant proceedings shall be continued by, or against, SLIF.

#### **5. TRANSFERRED REINSURANCE AGREEMENTS AND CHARGE DOCUMENTS**

- 5.1 Without prejudice to the generality of paragraph 3.2 and subject to paragraph 5.4, on and with effect from the Effective Date, SLAL shall become entitled to all the rights, benefits and powers (whether present or future, actual or contingent) of SLIF whatsoever subsisting on the Effective Date under or by virtue of the Transferred Reinsurance Agreements.
- 5.2 Subject to the terms of this Scheme (including without limitation paragraph 5.4), every person (other than SLIF) who as at the time immediately prior to the Effective Date is a party to a Transferred Reinsurance Agreement shall, on and with effect from the Effective Date:
- (A) become entitled, in succession to, and to the exclusion of, any rights which it may have had against SLIF under any of the Transferred Reinsurance Agreements, to the same rights, benefits and powers against SLAL as were

available to it against SLIF under such Transferred Reinsurance Agreements;  
and

- (B) (as regards Transferred Reinsurance Agreements under which premiums or other sums attributable or referable thereto continue to be payable by it) account to SLAL for any further or additional premiums or other sums attributable or referable thereto as and when the same become due and payable,

and, on and with effect from the Effective Date, SLAL shall become entitled to any and all defences, claims, counterclaims and rights of set-off that were or would have been available to SLIF under the Transferred Reinsurance Agreements.

5.3 Any reference in any Transferred Reinsurance Agreement to:

- (A) SLIF, the SLIF Group, the SLIF Board, any Personnel of SLIF or any other person relating to SLIF; or
- (B) to the extent that such reference relates to rights or obligations subsequently assigned or transferred to SLIF, any person who originally entered into that Transferred Reinsurance Agreement, such person's Group, Board, any Personnel of such person or any other person relating to such person,

shall, with effect from the Effective Date, be read as reference to SLAL, the SLAL Group, the SLAL Board, the relevant Personnel of SLAL (as appropriate), the equivalent person relating to SLAL as the context requires, or in each case such other person as the SLAL Board considers (in its sole and absolute discretion) appropriate. In particular, but without limitation, this paragraph 5.3 shall apply to all rights, benefits, powers, duties, responsibilities and obligations under any Transferred Reinsurance Agreement which are exercisable, expressed to be exercisable, or required to be fulfilled or performed by any person, Group or Board referred to in (A) or (B) above.

5.4 Each of SLIF and SLAL acknowledges that each Transferred Reinsurance Agreement and every other contract or arrangement to which SLIF and SLAL are the sole parties (including without limitation the Listed Reinsurance Agreements and the Stop-Loss Agreement) and which in each case is in force immediately prior to the date on which the rights, benefits, powers and liabilities thereunder are transferred under this Scheme shall, with effect from the date of (and as a result of) such transfer under this Scheme, cease to have further effect in all respects by operation of law.

5.5 Each of SLIF and SLAL shall take all such steps and do all such things (including procuring any release, waiver or consent required from a third party) in each case that are necessary to procure that on or prior to the Effective Date the Non-Linked Floating Charge is discharged on and with effect from the Effective Date.

5.6 On and with effect from the Effective Date, the Charge Documents shall be amended and restated in the manner set out in Schedule 3, and thereafter every person's rights, powers, benefits, obligations and liabilities thereunder or with respect thereto shall be

determined solely by reference to the relevant provisions of the Charge Documents as so amended and restated. Each of SLIF and SLAL shall take all such steps and do all such things (including the filing, execution and delivery of any document) in each case which may be necessary or desirable to effect or perfect such amended and restated Charge Documents.

## **6. EXCLUDED REINSURANCE AGREEMENTS**

6.1 Without prejudice to the generality of paragraph 3.10 and subject to paragraph 6.4 and paragraph 6.5:

(A) the liabilities under every Excluded Reinsurance Agreement shall remain liabilities of SLIF; and

(B) save to the extent that the reinsured under the Excluded Reinsurance Agreement is SLAL, the liabilities under each Excluded Reinsurance Agreement shall, in accordance with this paragraph 6, at all times after the Effective Date be retroceded or otherwise reinsured in their entirety into SLAL, such that SLAL shall discharge on SLIF's behalf or, failing that, indemnify SLIF fully against any such liabilities.

6.2 The liability of SLAL in respect of the retrocession or other reinsurance arrangements described in paragraph 6.1(B) shall be calculated so as to ensure that the rights, benefits and powers of the third party reinsureds under the Excluded Reinsurance Agreements shall be no less favourable than the rights, benefits and powers that such third party reinsureds would have had under the Excluded Reinsurance Agreements had such Excluded Reinsurance Agreements been Transferred Reinsurance Agreements.

6.3 The premiums payable by SLIF to SLAL in connection with the provision of the retrocession or reinsurance described in paragraph 6.1(B) shall be payable on the Effective Date and shall comprise an amount equal to the aggregate amount of the Mathematical Reserves (net of any reinsurance or retrocession ceded to any person other than SLAL) relating to those Excluded Reinsurance Agreements immediately prior to the Effective Date. Such amounts shall be deemed to have been satisfied by the transfer to SLAL of the appropriate proportion of the Transferred Assets and such assets or property shall be allocated in the manner and to the SLAL Fund in and to which they would have been allocated in accordance with this Scheme had the Excluded Reinsurance Agreements been Transferred Reinsurance Agreements. All subsequent premiums received by SLIF in respect of such Excluded Reinsurance Agreements at any time after the Effective Date shall be paid to SLAL as soon as practicable after they are received and credited to the SLAL Fund to which they would have been allocated had the Excluded Reinsurance Agreements been Transferred Reinsurance Agreements.

6.4 The provisions of paragraphs 6.1(B), 6.2 and 6.3 shall not apply to an Excluded Reinsurance Agreement to the extent that SLAL is the reinsured party under that Excluded Reinsurance Agreement.

- 6.5 If at any time following the Effective Date any Excluded Reinsurance Agreement is novated to SLAL:
- (A) the rights, benefits, powers and liabilities under such Excluded Reinsurance Agreement shall, to the extent not previously transferred, be transferred to SLAL;
  - (B) thereafter:
    - (i) such Excluded Reinsurance Agreement shall be dealt with by SLAL under the provisions of this Scheme in all respects as if such Excluded Reinsurance Agreement were a Transferred Reinsurance Agreement; and
    - (ii) the rights, benefits powers and liabilities under such Excluded Reinsurance Agreement shall be dealt with by SLAL under the provisions of this Scheme in all respects as if they were Transferred Assets or Transferred Liabilities, as appropriate (and without limitation shall be allocated in accordance with the principles set forth in Part D (Allocations and Costs)); and
  - (C) in the case of an Excluded Reinsurance Agreement under which SLAL is not the reinsured, the retrocession and reinsurance arrangements set out in this paragraph 6 shall, on and with effect from that novation, cease to apply to that Excluded Reinsurance Agreement (provided however that, to the extent that any liability of SLIF under such Excluded Reinsurance Agreement is not novated, SLAL shall continue to reinsure SLIF against any such liability of SLIF in accordance with this paragraph 6).

## **7. PAYMENTS**

Any mandate or other instruction in force on the Effective Date as to the manner of payment of any sum payable by SLIF in connection with any property or liability which is attributable to or in connection with the Transferred Business shall, with effect from the date on which the property or liability is transferred to SLAL under this Scheme, continue in force as an effective authority to SLAL. On and with effect from the date on which such property or liability is so transferred under this Scheme, any reference to SLIF in any such mandate or instruction shall be read as a reference to SLAL.

## **8. DECLARATION OF TRUST BY SLIF**

- 8.1 Subject to paragraph 8.3, if:
- (A) any property proposed to be transferred to SLAL by this Scheme is not, or is not capable of being, transferred to and vested in SLAL by the Order on the Effective Date by reason of:
    - (i) such property being a Residual Asset; or

- (ii) such property being outside the jurisdiction of the Court; or
  - (iii) any other reason;
- (B) the transfer of any property proposed to be transferred by this Scheme is outside the jurisdiction of the Court or is not recognised by the laws of the jurisdiction in which such property is situated;
- (C) any Residual Asset is not transferred to SLAL on the relevant Subsequent Transfer Date; or
- (D) in any circumstances SLIF and SLAL shall agree in writing before the Effective Date (or, in the case of any Residual Asset, before the Subsequent Transfer Date applicable thereto) that it is expedient not to effect a transfer to SLAL of a Transferred Asset or a Residual Asset (as the case may be),

then SLIF shall, from the Effective Date: (i) hold any such property, Transferred Asset or Residual Asset that is referred to in paragraphs (A) to (D) and that is not referred to in paragraph 8.3 ("**Trust Property**") on irrevocable trust for SLAL; and (ii) comply with any and all directions given by SLAL in respect of such Trust Property, in each case until it is either transferred to, or otherwise vested in, SLAL or disposed of (whereupon SLIF shall account to SLAL for the proceeds of disposal thereof).

8.2 Subject to paragraph 8.3, SLAL shall have irrevocable authority to act as attorney for SLIF in respect of Trust Property for the purposes of paragraph 8.1.

8.3 The provisions of paragraph 8.1 and paragraph 8.2 shall not apply to, and Trust Property shall not include, any of:

- (A) any Required Capital;
- (B) any substituting property, proceeds of sale or income, distribution or other accrual or return whatsoever, whether or not in any case in the form of cash, in each case which is earned, received or obtained in respect of (or in substitution of) any Required Capital by SLIF from time to time after the Effective Date but in each case prior to its Subsequent Transfer Date; and
- (C) any Excluded Asset.

8.4 If (i) any payment is made to; (ii) any property is received by; or (iii) any right, benefit or power is conferred upon SLIF on or after the Effective Date in respect of any part of the Transferred Business, any Transferred Asset, any Residual Asset or any Trust Property (save in each case for any payment, property, right, benefit or power referred to in paragraph 8.3 until (in the case of property under paragraph 8.3(A) or paragraph 8.3(B)) the relevant Subsequent Transfer Date has occurred), such payment, property, right, benefit or power (as the case may be) shall also constitute Trust Property and SLIF shall:

- (A) pay to SLAL the full amount of such payment as soon as reasonably practicable after its receipt;
- (B) transfer such property, right, benefit or power to SLAL as soon as reasonably practicable after it is received by or conferred upon SLIF if and to the extent it is able to do so; and
- (C) otherwise comply with the instructions of SLAL in respect of such payment, property, right, benefit or power if and to the extent it is able to do so.

8.5 Any costs (including without limitation any liabilities in respect of Tax) incurred in making any payment or transfer referred to in paragraph 8.4 or otherwise complying with any of the obligations under this paragraph 8 shall be borne by SLAL (and SLAL shall reimburse SLIF accordingly), and such costs shall be allocated to the SLAL PBF.

## 9. INDEMNITIES

9.1 Subject to paragraph 9.2 and paragraph 9.4, and save as otherwise provided in this Scheme, with effect from the Effective Date, SLAL shall discharge on SLIF's behalf or, failing that, shall indemnify SLIF against all Transferred Liabilities and Residual Liabilities (which, for the avoidance of doubt, shall include any fines, penalties, costs, losses and damages) and any other liability of SLIF in respect of the Transferred Business.

9.2 Where any liability referred to in paragraph 9.1 is, whether wholly or partly, the subject of a policy of indemnity insurance or a claim or right of recovery against a third party, the indemnity given by SLAL under paragraph 9.1 shall only apply to the extent that SLIF, having made a claim under such a policy or against such third party, shall have failed to recover any such amount pursuant to rights it may have under such policy, claim or right of recovery (having used all reasonable endeavours to do so), provided always that SLAL shall indemnify SLIF in respect of any costs, claims, charges and other liabilities incurred by SLIF in recovering the same.

9.3 The provisions of paragraph 9.1 and paragraph 9.2 shall not prejudice any indemnity granted by SLIF to SLAL prior to the Effective Date in respect of Transferred Liabilities or Residual Liabilities.

9.4 Where SLIF is entitled to receive an amount from SLAL under this paragraph 9, it shall be entitled to receive such amount as, after any withholding or deduction required by law and after payment of any liability to Tax in respect of the amount receivable, will result in the receipt, after any such withholding or deduction and after payment of any such liability to Tax referred to above, of an amount equal to the liability indemnified against.

9.5 SLAL shall not be required under paragraph 9.1, above to discharge or indemnify SLIF against or in respect of any Excluded Liabilities or any charges, costs, claims or other liabilities in respect of any Excluded Liabilities.

## PART D – ALLOCATIONS AND COSTS

### 10. PURPOSE OF ALLOCATIONS

Any allocation of property or attribution of liabilities, and any reallocation or reattribution of the same, which is made under this Scheme, is for the purpose of establishing or recognising respective policyholder and shareholder entitlements from time to time and shall not be taken to limit the availability of all the property from time to time of SLAL to meet the liabilities which it is obliged by law to meet.

### 11. SUBSEQUENT ALLOCATIONS AND ATTRIBUTIONS

Subject to compliance with all applicable laws and regulations (including without limitation FSMA and the rules and regulations made thereunder) and, to the extent applicable, with the 2006 Scheme, nothing in this Scheme shall prevent the subsequent allocation or attribution of any Transferred Asset, Transferred Liability, Residual Asset or Residual Liability, or any other property or liability, to a SLAL Fund.

### 12. ALLOCATION OF ASSETS

12.1 Save to the extent otherwise specified in this paragraph 12 and subject to paragraph 12.4, on and with effect from the Effective Date, each of the following shall be allocated to the SLAL PBF:

- (A) all Transferred Assets; and
- (B) all rights, benefits and powers arising under the retrocession or reinsurance arrangements set out in paragraph 6,

provided that, for the avoidance of doubt, this paragraph 12.1 shall apply to (and there shall be allocated to the SLAL PBF):

- (A) all assets which, as at the time immediately prior to the Effective Date, are held by SLIF in respect of liabilities reinsured under a Listed Reinsurance Agreement specified in part 1 of Schedule 1;
- (B) the SLIF Surplus; and
- (C) any Transferred Asset which, as at the time immediately prior to the Effective Date, is attributable to the Stop-Loss Agreement.

12.2 Subject to (B) and (C) of the proviso to paragraph 12.1, paragraph 12.4 and paragraph 14, on and with effect from the Effective Date every Transferred Asset (or part thereof) which, as at the time immediately prior to the Effective Date, is attributable to the reinsurance of HWPF Policies shall (to the extent so attributable) be allocated to the SLAL HWPF.

- 12.3 Subject to (B) of the proviso to paragraph 12.1 and paragraph 12.4, on and with effect from the Effective Date every Transferred Asset (or part thereof) which, as at the time immediately prior to the Effective Date, is comprised in or attributed to the SLIF SHF shall (to the extent so comprised or attributed) be allocated to the SLAL SHF.
- 12.4 Upon the transfer of any Tax Asset in accordance with this Scheme:
- (A) to the extent that, as at the time immediately prior to the time of such transfer, that Tax Asset (or part thereof) is comprised in or attributed to the Long-Term Insurance Fund of SLIF, that Tax Asset (or that part thereof) shall be allocated to the SLAL PBF;
  - (B) to the extent that, as at the time immediately prior to the time of such transfer, that Tax Asset (or part thereof) is comprised in or attributed to the SLIF SHF, that Tax Asset (or that part thereof) shall be allocated to the SLAL SHF; and
  - (C) without prejudice to the generality of paragraph 20.1, the provisions of paragraph 39 of the 2006 Scheme ("**Paragraph 39**") shall continue in force in all respects, including (as applicable) in respect of that Tax Asset.
- 12.5 Subject to paragraph 12.6, on and with effect from its Subsequent Transfer Date, each Residual Asset shall be allocated to the SLAL Fund to which it would have been allocated pursuant to the preceding provisions of this paragraph 12 (and, where applicable, the provisions of paragraph 14) had it been a Transferred Asset.
- 12.6 On and with effect from its Subsequent Transfer Date, the Required Capital and all property referred to in paragraph 8.3(B) shall be allocated to the SLAL SHF.
- 12.7 All Trust Property, the beneficial interest of SLAL therein, and all rights of SLAL in respect thereof shall be allocated to the SLAL Fund to which such Trust Property would have been allocated had it been a Transferred Asset.

### **13. ALLOCATION OF LIABILITIES**

- 13.1 Save to the extent otherwise specified in this paragraph 13 and subject to paragraph 13.4, on and with effect from the Effective Date, each of the following shall be allocated to the SLAL PBF:
- (A) all Transferred Liabilities;
  - (B) all liabilities attributable to the reinsurance or retrocession arrangements set out in paragraph 6; and
  - (C) the liability to discharge on SLIF's behalf or, failing that, to indemnify SLIF pursuant to paragraph 9.1,

and for the avoidance of doubt this paragraph 13.1 shall apply to (and there shall be allocated to the SLAL PBF) any liability which is attributable to the Stop-Loss Agreement.

13.2 Subject to paragraph 13.4 and paragraph 14, and save for any liability attributable to the Stop-Loss Agreement, on and with effect from the Effective Date:

- (A) every Transferred Liability (or part thereof) which, as at the time immediately prior to the Effective Date, is attributable to the reinsurance of HWPF Policies; and
- (B) every liability (or part thereof) pursuant to paragraph 9.1 to discharge on SLIF's behalf or, failing that, to indemnify SLIF in respect of, any liability of SLIF attributable to the reinsurance of HWPF Policies,

shall (to the extent so attributable) be allocated to the SLAL HWPF.

13.3 Subject to paragraph 13.4, on and with effect from the Effective Date:

- (A) every Transferred Liability (or part thereof) which, as at the time immediately prior to the Effective Date, is comprised in or attributed to the SLIF SHF; and
- (B) every liability (or part thereof) pursuant to paragraph 9.1 to discharge on SLIF's behalf or, failing that, to indemnify SLIF in respect of, any liability of SLIF which is comprised in or attributed to the SLIF SHF,

shall (to the extent so comprised or attributed) be allocated to the SLAL SHF.

13.4 Upon the transfer of any Tax Liability in accordance with this Scheme:

- (A) to the extent that, as at the time immediately prior to the time of such transfer, that Tax Liability (or part thereof) is comprised in or attributed to the Long-Term Insurance Fund of SLIF, that Tax Liability (or that part thereof) shall be allocated to the SLAL PBF;
- (B) to the extent that, as at the time immediately prior to the time of such transfer, that Tax Liability (or part thereof) is comprised in or attributed to the SLIF SHF, that Tax Liability (or that part thereof) shall be allocated to the SLAL SHF; and
- (C) without prejudice to the generality of paragraph 20.1, the provisions of Paragraph 39 shall continue in force in all respects, including (as applicable) in respect of that Tax Liability.

13.5 Subject to paragraph 13.6, on and with effect from its Subsequent Transfer Date, each Residual Liability shall be allocated to the SLAL Fund to which it would have been allocated pursuant to the preceding provisions of this paragraph 13 (and, where applicable, the provisions of paragraph 14) had it been a Transferred Liability.

13.7 On and with effect from its Subsequent Transfer Date, every Residual Liability which is attributable to, or connected with the Required Capital or any property referred to in paragraph 8.3(B) shall be allocated to the SLAL SHF.

**14. SPECIFIC ARRANGEMENTS IN RESPECT OF SLIF EB ANNUITIES REINSURANCE AGREEMENT AND LINKED REINSURANCE AGREEMENTS**

14.1 Subject to paragraph 20.2, immediately after the time at which the rights, benefits, powers and liabilities under, and in respect of, the SLIF EB Annuities Reinsurance Agreement are transferred from SLIF to SLAL in accordance with this Scheme:

(A) there shall be attributed to the SLAL PBF such assets (and/or rights to such assets) as are agreed between SLIF and SLAL to be of an aggregate value that is equal to the amount that would have been payable by SLIF to SLAL under the terms of the SLIF EB Annuities Reinsurance Agreement had it terminated in accordance with its terms (the “**Equivalent Attribution**”); and

(B) the arrangements set out in Schedule 2 shall apply and shall be implemented by SLAL.

14.2 Subject to paragraph 14.3, with effect from the time immediately following the transfer of the rights, benefits, powers and liabilities under and in respect of the Linked Reinsurance Agreements in accordance with this Scheme, and at all times thereafter:

(A) the UL Investment Element of any Policy that is or becomes a Relevant Policy (which shall include without limitation those Relevant Policies that were subject to the reinsurance provided under a Linked Reinsurance Agreement) shall be transferred from the SLAL HWPF to the SLAL PBF in accordance with Paragraph 24 of the 2006 Scheme (“**Paragraph 24**”);

(B) the provisions of Paragraph 24 shall apply in all respects in respect of that Relevant Policy; and

(C) for the purposes of Paragraph 24:

(i) the SLAL PBF shall be a “New Investment Fund”; and

(ii) all Relevant Policies shall be “New Investment Policies”.

14.3 Paragraph 14.2 shall not operate in any way to limit, and shall be without prejudice to, the right of the SLAL Board (acting in accordance with the 2006 Scheme) to make subsequent or alternative determinations under, or in connection with, Paragraph 24, including without limitation in respect of any allocation, transfer or reinsurance of the Investment Element of any Policy (whether or not a Relevant Policy).

14.4 For the purposes of this paragraph 14, each of “**UL Investment Element**” and “**Investment Element**” has the meaning given to it in Paragraph 24.

## 15. LINKED FUNDS

15.1 On and with effect from the Effective Date, all Transferred Assets and Transferred Liabilities in each case which, as at the time immediately prior to the Effective Date, were comprised in a SLIF Linked Fund shall be allocated to, and become comprised in, an existing and corresponding SLAL Linked Fund (or, where there is no such existing and corresponding SLAL Linked Fund at the Effective Date, a new corresponding SLAL Linked Fund), in each case within the relevant SLAL Fund, comprising the same number and value of units as were comprised within the relevant SLIF Linked Fund immediately prior to the Effective Date.

15.2 Subject to FSMA and the requirements of Principle 6, the SLAL Board may (having regard to the advice of the SLAL AFH):

- (A) open new Linked Funds;
- (B) close existing Linked Funds;
- (C) amalgamate, reinsure or transfer any Linked Fund or any part thereof with or to (as the context requires) any other Linked Fund or any part thereof;
- (D) divide any Linked Fund into one or more Linked Funds; or
- (E) effect any combination of the aforesaid,

in each case whether or not SLIF would, prior to the Effective Time, have been so entitled.

## 16. UNCERTAINTY, DISPUTES AND ADJUSTMENTS IN RELATION TO ALLOCATIONS

16.1 If:

- (A) in the opinion of the SLAL Board (having regard to the advice of the SLAL With-Profits Actuary), the allocation or attribution of any property or liability to be allocated or attributed under this Scheme is uncertain; or
- (B) any doubt or difference shall arise as to the allocation or attribution of any property or liability to be allocated or attributed under this Scheme (including any right, benefit, power or liability under, in respect of or attributable to any Excluded Reinsurance Agreement which is subsequently novated to SLAL),

the property or liability shall be allocated or attributed (as the case may be) in such manner as the SLAL Board, having regard to the advice of the SLAL With-Profits Actuary (and, to the extent applicable, to the 2006 Scheme), shall determine, in each case in accordance with the principles underlying this Scheme.

16.2 If, for any reason, there is any error in the allocation or attribution of (or any omission or failure to allocate or attribute in accordance with this Scheme) any property or liability

(including without limitation the SLIF Surplus, any Required Capital and any right, benefit, power or liability under, in respect of or attributable to an Excluded Reinsurance Agreement which is subsequently novated to SLAL), the SLAL Board (having regard to the advice of the SLAL With-Profits Actuary and, to the extent applicable, to the 2006 Scheme) may make such re-allocations, re-attributions and adjustments between the SLAL Funds as it considers necessary or appropriate to remedy such error, omission or failure, in each case in accordance with the principles underlying this Scheme.

**17. COSTS AND EXPENSES**

SLAL shall bear the costs and expenses incurred by each of it and SLIF in relation to the preparation and carrying into effect of this Scheme, whether before or after the Effective Date, including without limitation the following costs and expenses and any value added tax payable thereon (and SLAL shall reimburse SLIF accordingly):

- (A) the costs and expenses of jointly appointed Counsel (including disbursements in connection therewith) in relation to this Scheme; and
- (B) the cost and expenses of the Independent Expert,

and such costs shall be allocated to the SLAL PBF.

**PART E - MISCELLANEOUS PROVISIONS****18. EFFECTIVE DATE**

- 18.1 Subject to paragraph 18.3, this Scheme shall become effective at a time and date (being a time and date falling after the making of the Order sanctioning this Scheme) as is agreed in writing in advance of the Order by SLAL and SLIF.
- 18.2 Unless this Scheme shall become effective in its entirety on or before 11:59 p.m. on 31 March 2012 or such later date and/or time, if any, as the Court may allow upon the application of SLIF and SLAL, it shall lapse.
- 18.3 This Scheme shall not become effective or unconditional until the Effective Date and unless:
- (A) on or prior to the Effective Date, the Order shall have been made;
  - (B) SLIF and SLAL shall have received (in terms satisfactory in all respects to each) clearance from HMRC in respect of this Scheme under Section 444AED of ICTA or the requirement for such clearance has been waived in whole or in part by SLAL and SLIF with the approval of the Independent Expert; and
  - (C) the Court shall have granted its consent, in terms satisfactory in all respects to each of SLIF and SLAL, to the variations to the 2006 Scheme contemplated by paragraph 20.2 and Schedule 4.

**19. MODIFICATIONS OR ADDITIONS**

- 19.1 SLIF and SLAL may consent for and on behalf of themselves and all other persons concerned to any variation of this Scheme or to any further condition or provision affecting the same which, in each case prior to its sanction of this Scheme, the Court may approve or impose.
- 19.2 Subject to paragraph 19.3, SLAL may, after the grant of the Order:
- (A) vary this Scheme if, and to the extent that, the provision to which the proposed variation applies expressly permits such variation;
  - (B) vary this Scheme with the approval of the SLAL With-Profits Actuary where the proposed variation is necessary to correct a manifest error;
  - (C) vary this Scheme with the approval of the SLAL With-Profits Actuary and the Insurance Regulator where the proposed variation is reasonably considered by the SLAL Board to be necessary to ensure that the provisions of this Scheme operate in the intended manner (where the provision to which the proposed variation applies will (or is likely to be) materially affected by a variation or proposed variation to the FSA Handbook or other applicable legislation or regulations); and

(D) apply to the Court for consent to vary the terms of this Scheme, provided that in any such case the Insurance Regulator shall be notified of, and have the right to be heard at, any hearing of the Court at which the application is considered.

19.3 The arrangements set out in Schedule 2 may be varied by SLAL (without any requirement for the consent of the Court) on the condition that such variation:

(A) accords with the terms of, and meets all applicable conditions set out in, clause 8 (or any equivalent successor provision) of Schedule 2; and

(B) complies with all applicable law and regulation.

## **20. 2006 SCHEME**

20.1 Save as specified at paragraph 20.2, the provisions of the 2006 Scheme shall continue in force in all respects and shall not be varied in any respect as a result of this Scheme.

20.2 With effect from the Effective Date, the 2006 Scheme shall be varied in the manner set out in Schedule 4.

## **21. THIRD PARTY RIGHTS**

A person who is not a party to this Scheme may not enforce any term of this Scheme.

## **22. GOVERNING LAW**

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

Dated: [●] 2011

**SCHEDULE 1**

**Listed Reinsurance Agreements**

Part 1

1. Reinsurance Agreement: UK SIPPs – Unit-Linked Funds between SLAC (as Reinsured) and SLIF (as Reinsurer) dated 28 April 2006.
2. Reinsurance Agreement: New SIPP Business between SLAL (as Reinsured) and SLIF (as Reinsurer) dated 20 December 2006.
3. Reinsurance Agreement: New Business between SLAL (as Reinsured) and SLIF (as Reinsurer) dated 7 July 2006.

Part 2

4. SLIF EB ULL Reinsurance Agreement.
5. SLIF EB ULP Reinsurance Agreement.
6. SLIF EB Annuities Reinsurance Agreement.

## SCHEDULE 2

### Replacement Arrangements in respect of the SLIF EB Annuities Reinsurance Agreement

#### 1. INTERPRETATION

##### 1.1 In this Schedule 2:

<b>“Actual Annuity Payments”</b>	means all payments made or due and payable (and, for the purposes of this Schedule 2, amounts which are not permitted to be paid to annuitants by SLAL pursuant to rules of pension schemes are neither payments made nor payments due and payable) by SLAL in respect of Covered Policies during each Calculation Period, but excluding: (i) payments made (or due and payable) by SLAL in respect of Annuity Augmentations; and (ii) any such payments made by SLAL after the death of the annuitant which are not recovered;
<b>“Adjustment Amount”</b>	has the meaning given to it in <u>clause 7.4</u> ;
<b>“Annuity Augmentation”</b>	means any augmentation or increase to an annuity which was paid, due and payable or secured after the 2006 Scheme Effective Time in respect of a Covered Policy which was written in, or allocated to, the SLAL HWPF pursuant to the 2006 Scheme, but excluding any contractual or automatic increase to an annuity (other than a contractual increase which is an Increased Annuity Payment);
<b>“Annuity Augmentation Costs”</b>	has the meaning given in <u>clause 4.2</u> ;
<b>“Annuity Augmentation Coverage Payments”</b>	means annuity augmentation premiums, being all premiums received or applied by the SLAL HWPF to secure New Annuity Augmentations including the single premium cost to the SLAL HWPF (calculated using SLAL HWPF’s nil commission immediate annuity premium basis then in force) in respect of Increased Annuity Payments;
<b>“Business Day”</b>	means any day (other than a Saturday or Sunday) on which banks are open for the transaction of general banking business in Edinburgh and London;
<b>“Calculation Date”</b>	means, in respect of each Calculation Period, the last Business Day of that Calculation Period;

- “Calculation Period”** means each calendar month during the term of the arrangements set out in this Schedule 2 or, in respect of the Coverage Effective Month, the period from and including the Effective Date to and including the last day in the Coverage Effective Month;
- “Coverage Effective Month”** means the calendar month in which the Effective Date falls;
- “Covered Liabilities”** means:
- (A) the longevity risk in respect of all of the Covered Policies; and
  - (B) all Annuity Augmentations,
- except to the extent that such liabilities are reinsured pursuant to third party reinsurance arrangements;
- “Covered Policies”** means:
- (A) all Transferred Policies in respect of which a non profit annuity was in payment or had vested (including where such vesting has arisen on retirement or death) prior to the 2006 Scheme Effective Time, excluding all EEA Policies, but including: (i) Jersey Policies from and with effect from the Jersey Effective Time; and (ii) Guernsey Policies from and with effect from the Guernsey Effective Time; and
  - (B) all reinsurances ceded to SLAL in respect of which a non profit annuity was in payment or had vested (including where such vesting has arisen on retirement or death) prior to the 2006 Scheme Effective Time, including: (i) Jersey Policies prior to the Jersey Effective Time; (ii) Guernsey Policies prior to the Guernsey Effective Time; and (iii) any such Policies which are comprised within the SLPF Annuity Business,
- other than Policies, and reinsurances ceded, where the liability in respect of the Policy, or reinsurance, has been reinsured by SLAL pursuant to a third party reinsurance arrangement;
- “EEA Policies”** means all Policies written in the course of carrying on insurance business in any EEA State other than the United

	Kingdom and the Republic of Ireland;
<b>“EEA State”</b>	has the meaning set out in paragraph 8, Part I of Schedule 3 to FSMA;
<b>“Existing Annuity Augmentations”</b>	means Annuity Augmentations that are not New Annuity Augmentations;
<b>“Guernsey Effective Time”</b>	has the meaning given to it in the 2006 Scheme;
<b>“Guernsey Policies”</b>	has the meaning given to it in the 2006 Scheme;
<b>“Increased Annuity Payment”</b>	means any payment in respect of an annuity to the extent that such payment arises as a result of the trustees of the relevant pension scheme varying the rules of the pension scheme to remove restrictions on the amount which can be paid to annuitants in respect of the annuity;
<b>“Initial Expenses”</b>	means distribution and issue expenses allocated to the SLAL HWPF in respect of the Covered Policies in accordance with paragraph 34 of the 2006 Scheme;
<b>“Interim Refund Amount”</b>	has the meaning given in <u>clause 7.2</u> ;
<b>“Jersey Effective Time”</b>	has the meaning given to it in the 2006 Scheme;
<b>“Jersey Policies”</b>	has the meaning given to it in the 2006 Scheme;
<b>“Monthly Amount”</b>	has the meaning given to it in <u>clause 5</u> ;
<b>“Monthly Coverage Payment”</b>	means, in respect of a Calculation Period, such amount as is specified in (and determined in accordance with the provisions of) schedule 3 to the SLIF EB Annuities Reinsurance Agreement, the provisions of and data contained in that schedule applying <i>mutatis mutandis</i> to the determination of such amount and any reference in that schedule to a “Monthly Reinsurance Premium” being, for the purposes of this Schedule 2, a reference to a Monthly Coverage Payment;
<b>“Monthly Coverage Payment Deduction”</b>	means, in respect of a Calculation Period, such amount as is specified in (and determined in accordance with the provisions of) schedule 7 to the SLIF EB Annuities Reinsurance Agreement, the provisions of and data contained in that schedule applying <i>mutatis mutandis</i> to the determination of such amount and any reference in that schedule to a “Monthly Reinsurance Premium”

	Deduction” being, for the purpose of this Schedule 2, a reference to a Monthly Coverage Payment Deduction;
<b>“Monthly Settlement Date”</b>	means the Business Day immediately following each Calculation Date;
<b>“Net Monthly Coverage Payment”</b>	means, in respect of a Calculation Period, the Monthly Coverage Payment less the Monthly Coverage Payment Deduction in respect of that Calculation Period;
<b>“New Annuity Augmentation”</b>	means any Annuity Augmentation which was paid, due and payable or secured after the Effective Date;
<b>“Policyholder”</b>	means any “policyholder” within the meaning of the Financial Services and Markets Act (Meaning of “Policy” and “Policyholder”) Order 2001 (SI 2001/2361);
<b>“Restricted Annuity Adjustment”</b>	means, in respect of a Calculation Period, an amount equal to the Unrestricted Annuity Payments in respect of that Calculation Period less the Actual Annuity Payments in respect of that Calculation Period;
<b>“Scheme”</b>	means the Scheme of Transfer to which this document forms Schedule 2 and in accordance with which it is intended that all of SLIF’s business, and its property and liabilities, are to be transferred to SLAL;
<b>“SLAL HWPF With Profits Policies”</b>	means “WPF With Profits Policies” as such term is defined in the 2006 Scheme;
<b>“SLPF Annuity Business”</b>	means the business and undertaking of SLPF which comprises the writing of life or annuity contracts of insurance under paragraph I of Part II of Schedule I to the Regulated Activities Order and which is, from time to time, reinsured into the SLAL HWPF;
<b>“Transferred Policies”</b>	has the meaning given to it in the 2006 Scheme;
<b>“Unrestricted Annuity Payments”</b>	means, in respect of a Calculation Period, the Actual Annuity Payments that otherwise would be made or due and payable in respect of that Calculation Period had the rules of pension schemes not restricted the application of fixed rate escalation to the amount of such Actual Annuity Payments; and
<b>“2006 Scheme Effective Time”</b>	means the “Effective Time” as defined in the 2006 Scheme.

1.2 Unless otherwise defined in this Schedule 2, capitalised expressions shall have the meaning ascribed to them in the Scheme.

## **2. COVERED LIABILITIES: COVERED POLICIES AND ANNUITY AUGMENTATIONS**

2.1 The coverage by the SLAL PBF of the Covered Liabilities on the basis set out in this Schedule 2 shall constitute the provision of reinsurance for the purposes of paragraph 22.1 of the 2006 Scheme (as varied on the terms set out in Schedule 4 to the Scheme).

2.2 The coverage by the SLAL PBF of:

- (A) the longevity risk in respect of the Covered Policies; and
- (B) the liabilities in respect of Existing Annuity Augmentations,

shall be borne by the SLAL PBF on the basis set out in this Schedule 2.

2.3 The coverage by the SLAL PBF of the liabilities in respect of any New Annuity Augmentation shall:

- (A) be effected immediately and automatically on, and with effect from, the acceptance of liability in respect of such New Annuity Augmentation by the SLAL HWPF; and
- (B) otherwise be implemented on the basis set out in this Schedule 2.

## **3. ACKNOWLEDGEMENT OF EQUIVALENT ATTRIBUTION**

The Equivalent Attribution to the SLAL PBF pursuant to paragraph 14.1(A) of the Scheme, in consideration for the SLAL PBF bearing the coverage of the Covered Liabilities on the terms set out in this Schedule 2, is hereby acknowledged.

## **4. COMMISSIONS AND BROKERAGE; EXPENSES**

4.1 Subject to clause 4.2, the SLAL HWPF shall be responsible for and bear:

- (A) all administration and management costs and expenses in respect of the Covered Policies; and
- (B) all amounts which become due and payable as commission and/or brokerage in respect of the Covered Policies.

4.2 **The SLAL PBF shall be responsible for and bear:**

- (A) the Initial Expenses incurred by SLAL in accepting liability in respect of a New Annuity Augmentation; and

- (B) all amounts which become due and payable by SLAL as commission and/or brokerage in respect of New Annuity Augmentations,

(together, the “**Annuity Augmentation Costs**”) and the SLAL PBF shall reimburse such amounts to the SLAL HWPF in accordance with clause 5.

- 4.3 Without prejudice to clauses 4.1 and 4.2, each of the SLAL HWPF and the SLAL PBF shall bear the costs of investment management in respect of the assets held by it in respect of the Covered Liabilities.

## 5. SETTLEMENT AND RECONCILIATION

On each Monthly Settlement Date, the SLAL PBF shall reimburse the SLAL HWPF with an amount equal to:

- 5.1 all Actual Annuity Payments;
- 5.2 all Annuity Augmentation Costs;
- 5.3 all payments made (or due and payable) by SLAL to Policyholders or other beneficiaries in respect of Annuity Augmentations (excluding any payments made by SLAL after the death of an annuitant which are not recovered by SLAL); and
- 5.4 the Restricted Annuity Adjustment,

less:

- 5.5 the Net Monthly Coverage Payment;
- 5.6 the Annuity Augmentation Coverage Payments; and
- 5.7 all amounts recovered by SLAL in respect of (i) Actual Annuity Payments made by SLAL; and (ii) all payments made by SLAL in respect of Annuity Augmentations, in each case where such amounts are recovered as a result of the death of the annuitant,

in each case in respect of the immediately preceding Calculation Period (such amount being the “**Monthly Amount**”).

## 6. TERMINATION

- 6.1 Subject to clause 6.2 and clause 6.3, the arrangements set out in this Schedule may be terminated by the SLAL Board at any time.

- 6.2 The arrangements set out in this Schedule may not be terminated under clause 6.1 without the prior written consent of the SLAL With-Profits Actuary, given on the basis that the proposed termination is expected to materially and adversely affect neither:

- (A) the contractual rights of the holders of SLAL HWPF With Profits Policies; nor

- (B) the reasonable expectations of the holders of SLAL HWPF With Profits Policies regarding non-contractual rights under such Policies.

6.3 If it is proposed, intended or envisaged that the arrangements set out in this Schedule 2 will be terminated, the SLAL Board shall procure that, no later than the date on which the arrangements are so terminated, an alternative arrangement is implemented to provide reinsurance of or otherwise to transfer the longevity risk in respect of the Covered Liabilities, on terms determined by the SLAL Board to be not materially less beneficial to the SLAL HWPF than the arrangements set out in this Schedule 2 (any such determination to be made having regard to the advice of the SLAL With-Profits Actuary). Such alternative arrangement may, at the discretion of the SLAL Board, be provided by a SLAL Fund (other than the HWPF), any member of the SLAL Group and/or any other person.

## 7. CONSEQUENCES OF TERMINATION

7.1 If the arrangements set out in this Schedule 2 are terminated pursuant to clause 6, the provisions of this clause 7 shall apply.

7.2 The SLAL PBF shall, within 3 Business Days of the termination becoming effective, refund an amount to the SLAL HWPF that is equal to the SLAL Board's good faith estimate of 100% of the Mathematical Reserves (gross of external reinsurance) held by the SLAL PBF in relation to the Covered Liabilities as at the end of the Calculation Period immediately preceding the date on which the termination took effect (the "**Interim Refund Amount**"), such Interim Refund Amount to be calculated in accordance with all applicable law and regulation.

7.3 The liability of the SLAL PBF to cover the Covered Liabilities on the terms of this Schedule 2 shall cease.

7.4 Within three months of the termination taking effect, the SLAL Board shall determine the appropriate adjustment to be made to the Interim Refund Amount (by making a transfer from the SLAL HWPF to the SLAL PBF or from the SLAL PBF to the SLAL HWPF (as the context requires)) in order to ensure that 100% of the Mathematical Reserves (gross of external reinsurance) required to be held by the SLAL PBF in relation to the Covered Liabilities as at the date of termination (the "**Adjustment Amount**") has been transferred to the SLAL HWPF.

7.5 Any determination by the SLAL Board under clause 7.4 shall be made having regard to the advice of the SLAL With-Profits Actuary.

## 8. WAIVERS AND VARIATIONS

The arrangements set out in this Schedule 2 and any part thereof may be varied or waived without the consent of the Court if such variation or waiver (as the case may be) has been consented to in writing by the SLAL With-Profits Actuary, such consent given on the basis that the proposed waiver or variation is expected to materially and adversely affect neither:

- (A) the contractual rights of the holders of SLAL HWPF With Profits Policies; nor
- (B) the reasonable expectations of the holders of SLAL HWPF With Profits Policies regarding non-contractual rights under such Policies.

**SCHEDULE 3**

**Amended Charge Documents**

Part 1

Property-Linked Floating Charge

**DRAFT**

**PROPERTY-LINKED FLOATING CHARGE  
IN RELATION TO UNIT-LINKED LIABILITIES**

between

**STANDARD LIFE ASSURANCE LIMITED  
(as Chargor)**

and

**THE LAW DEBENTURE TRUST CORPORATION P.L.C  
(as Chargee)**

**Dated 12 October 2006 and as amended and restated by order of the Court of Session in  
Scotland on [ ] 2011 and taking effect on [ ] 2011 pursuant to the insurance business  
scheme under Part VII of the Financial Services and Markets Act 2000**

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**This PROPERTY-LINKED Floating charge is made by:**

- (1) **STANDARD LIFE ASSURANCE LIMITED** (company number SC286833) whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH (the **Chargor**); and
- (2) **THE LAW DEBENTURE TRUST CORPORATION P.L.C.** (company number 1675231) whose registered office is at Fifth Floor, 100 Wood Street, London, EC2V 7EX, acting as security trustee for the Beneficiaries (as defined in the Security Trust Agreement) in terms of the Security Trust Agreement (as defined below) (the **Chargee**).

**WITNESSES as follows:**

**1. INTERPRETATION**

- 1.1 In this Property-Linked Floating Charge, except insofar as the context otherwise requires, the following words and expressions shall have the meanings set out below:

**Beneficiaries** is as defined in the Security Trust Agreement and **Beneficiary** shall mean each of them;

**Business Day** means a day on which clearing banks are ordinarily open for business in London;

**Chargee Sums** means any sums due to the Chargee under the Security Trust Agreement and this Property-Linked Floating Charge;

**Permitted Security Interest** means any Security Interest created by the Chargor in the ordinary course of business of the Chargor in relation to that part of its business which relates to the Property-Linked Policies but excluding any Security Interest securing or otherwise referable to money and liabilities now or in the future due, owing or incurred by the Chargor under or in connection with a contract of insurance or contract of reinsurance;

**Policy** means any "policy" within the meaning of the Financial Services and Markets Act (Meaning of "Policy" and "Policyholder") Order 2001 (SI 2001/2361);

**Property-Linked Charged Property** means the assets and rights of the Chargor which are held from time to time by the Chargor in order to calculate the monetary value of its Property-Linked Liabilities;

**Property-Linked Liabilities** means all liabilities of the Chargor in respect of the Property-Linked Policies including the Property-Linked Reinsurance Contracts;

**Property-Linked Policy** means any Policy (or part of any Policy) issued by (or transferred to) the Chargor in the United Kingdom or the Republic of Ireland, which falls within paragraph III of Part II of Schedule 1 to the Regulated Activities Order, to the extent to which the benefits payable are determined by reference to the value of, or the income from, property of any

description (whether or not specified in the Policy) and including each of the Property-Linked Reinsurance Contracts, but not, for the avoidance of doubt, any Policy (or part of such Policy):

- a) in respect of which any policyholder is entitled to participate in any established surplus or in relation to which the value of benefits is measured by reference to with profits units allocated to that Policy; or
- b) where the benefits payable are determined by reference to an index of the value of property of any description (whether or not specified in the Policy; for the avoidance of doubt, a policy or part of a policy does not fall within paragraph (b) if the benefits payable are linked to any underlying fund of assets (whether or not those assets include derivatives) which is managed with a view to replicating an index; or
- c) where the benefits payable are determined by reference to a unit endowment fund;

**Property-Linked Reinsurance Contracts** means (1) the reinsurance contracts specified in the Schedule and (2) any subsequent reinsurance contracts written by the Chargor in favour of any Beneficiary, which are contracts of long-term insurance, as that term is defined in Article 3 of the Regulated Activities Order and which the Chargor and Chargee specify from time to time as being "Property-Linked Reinsurance Contracts" for the purpose of this Property-Linked Floating Charge,

as each is amended, supplemented or replaced from time to time and only to the extent that such contracts continue to relate to Property-Linked Liabilities;

**Property-Linked Reinsured Liabilities** means all money and liabilities now or in the future due, owing or incurred in any manner to the Beneficiaries by the Chargor under or in connection with Property-Linked Reinsurance Contracts, whether actually, prospectively or contingently but only to the extent that such liabilities are in respect of Property-Linked Policies;

**Property-Linked Secured Amount** means the amount resulting from the following calculation:

(the Total Proceeds - the Chargee Sums - S176A Sums) x the Reinsured Proportion;

**Regulated Activities Order** means the Financial Services and Markets Act (Regulated Activities) Order 2001 (SI 2001/544);

**Reinsured Proportion** means:

$$\frac{\text{the Property-Linked Reinsurance Liabilities at the Valuation Time}}{\text{the Property-Linked Liabilities at the Valuation Time}}$$

**S176A Sums** means any sum payable to unsecured creditors of the Company under Section 176A of the Insolvency Act 1986;

**Secured Obligations** means the Property-Linked Secured Amounts and the Chargee Sums;

**Secured Parties** is as defined in the Security Trust Agreement;

**Security Interest** means any right or interest arising out of:

- a) any mortgage, charge, pledge, assignment (whether or not expressed to be by way of security), hypothecation, lien, encumbrance or other priority or security interest of any kind, howsoever created or arising;
- b) any deferred purchase, title retention, trust, sale-and-repurchase, sale-and-leaseback, hold back or "flawed asset" arrangement or right of set-off;
- c) any other agreement or arrangement of any kind having the same or a similar commercial or economic effect as security; and
- d) any agreement for any of the foregoing;

**Security Trust Agreement** means the security trust agreement between the Chargee, the Chargor and the Beneficiaries (as defined in that agreement) dated 12 October 2006, as amended and restated on 27 November 2007 and as amended and restated by order of the Court of Session in Scotland on [ ] 2011 and taking effect on [ ] pursuant to the insurance business scheme under Part VII of the Financial Services and Markets Act 2000;

**Total Proceeds** means the aggregate of all moneys, or other assets, received or recovered by the Chargee (or on its behalf) in connection with the realisation of the whole of the Property-Linked Charged Property;

**Valuation Time** means 23.59 on the date before a liquidator is appointed to the Chargor or the Chargee exercises its right under Clause 3.2 below to appoint an administrator to the Chargor or a receiver of the Property-Linked Charged Property;

**VAT** means valued added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

## 1.2 Interpretation

1.2.1 Unless the context otherwise requires, in this Property-Linked Floating Charge:

- (a) references to any party shall be construed so as to include that party's respective successors in title, permitted assigns and permitted transferees;
- (b) **"including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the

foregoing" and "in particular, but without prejudice to the generality of the foregoing";

- (c) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (d) **"variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly;
- (e) **"writing"** includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Property-Linked Floating Charge to be signed and **"written"** has a corresponding meaning;
- (f) subject to Clause 10 (*Variations*), references to this Property-Linked Floating Charge or to any other document include references to this Property-Linked Floating Charge or such other document as varied in any manner from time to time;
- (g) the singular shall include the plural and vice versa; any gender shall include the other genders; clauses shall be construed as references to clauses of this Property-Linked Floating Charge.

### 1.3 **Statutes**

Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force.

### 1.4 **Headings**

Headings in this Property-Linked Floating Charge are inserted for convenience and shall not affect its interpretation.

## 2. **COVENANT TO PAY SECURED AMOUNT**

The Chargor hereby covenants that it will pay or discharge when due to the Secured Parties the Secured Obligations owing by it to the Secured Parties from time to time.

### **3. CREATION OF FLOATING CHARGE AND ATTACHMENT**

- 3.1 As continuing security for the payment or discharge of the Secured Obligations, the Chargor hereby charges to the Chargee by way of floating charge all its right to and title in the Property-Linked Charged Property.
- 3.2 At any time after (a) appointment of a liquidator or receiver over all or any of the Property-Linked Charged Property; or (b) any request from the board of directors of the Chargor that a liquidator or administrator be appointed, the Chargee may then by instrument in writing appoint any person or persons (if more than one with power to act both jointly and severally) to be an administrator of the Chargor or receiver of the Property-Linked Charged Property.
- 3.3 Any administrator appointed under the terms of Clause 3.2 shall have and be entitled to exercise all the powers conferred upon such administrator by the Insolvency Act 1986.
- 3.4 The proceeds of the enforcement of this Property-Linked Floating Charge shall be applied only in accordance with the Security Trust Agreement.

### **4. REPRESENTATIONS AND WARRANTIES**

- 4.1 The Chargor represents and warrants to the Chargee that:
- 4.1.1 it has the capacity and power to execute and deliver this Property-Linked Floating Charge and to perform its obligations under it and has taken all necessary action to authorise such execution, delivery and performance;
- 4.1.2 the persons signing this Property-Linked Floating Charge on its behalf are duly authorised to do so on its behalf;
- 4.1.3 it has obtained all authorisations of any governmental or regulatory body required in connection with execution, delivery and performance of this Property-Linked Floating Charge and such authorisations are in full force and effect;
- 4.1.4 the execution, delivery and performance of this Property-Linked Floating Charge has not, and will not, violate any law or rule applicable to it;
- 4.1.5 it is acting as a principal in entering into this Property-Linked Floating Charge and performing its obligations hereunder;
- 4.1.6 it has the right to charge the Property-Linked Charged Property in favour of the Chargee under this Property-Linked Floating Charge; and
- 4.1.7 there are no prior ranking fixed or floating charges over the Property-Linked Charged Property other than any Permitted Security Interest.

## 5. **NEGATIVE PLEDGE**

Until the floating charge hereby created shall have been discharged in full the Chargor shall not create or permit to subsist any Security Interest on or over the Property-Linked Charged Property or any part of it, except for this Property-Linked Floating Charge and any transaction permitted hereunder and any Permitted Security Interest whether or not it constitutes a fixed security or a floating charge in terms of Section 462 of the Companies Act 1985. The floating charge hereby created shall, subject to Section 462(2) of the Companies Act 1985, rank in priority to any fixed security (other than a Permitted Security Interest constituting a security right) which shall be created by the Chargor after its execution.

## 6. **STOCK LENDING AND BORROWING AND REPURCHASE TRANSACTIONS**

It is hereby agreed that, prior to crystallisation, the Chargor shall be free to deal, trade, exchange or otherwise dispose of the Property-Linked Charged Property in any manner it deems fit and, for the avoidance of doubt, the Chargor may enter into any agreement for the transfer of securities, financial instruments, money and/or other assets by way of a stock lending or borrowing, repurchase arrangement or sale and buy-back, or any securitisation arrangements where it assigns (or creates a trust over, all or part of the Property-Linked Charged Property (or any economically equivalent transaction)) or may make any dividend payment, repay capital or reduce its capital.

## 7. **CONTINUANCE OF SECURITY; REDEMPTION**

7.1 Without prejudice to the generality of Clause 2 (*Covenant to pay Secured Amounts*), the charge, covenants and provisions contained in this Property-Linked Floating Charge shall remain in force as a continuing security to the Chargee, notwithstanding any settlement of account or any other act, event or matter whatsoever, except only the execution by the Chargee of an absolute and unconditional release under Scots law.

7.2 Once the Property-Linked Secured Amount is repaid and discharged in full and the Chargor has no further obligation (whether actual, prospective or contingent) in relation to any Property-Linked Reinsurance Contract with the Beneficiaries or in respect of the Chargee Sums, the Chargor shall be entitled to redeem the security constituted by this Property-Linked Floating Charge and to require the Chargee to effect a full release and discharge of it, including performing all such deeds, acts and things as are necessary to release the Property-Linked Charged Property from the security created by this Property-Linked Floating Charge.

## 8. **ADDITIONAL SECURITY**

The charge contained in this Property-Linked Floating Charge is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, any other Security Interest, right of recourse or other right whatsoever which the Secured Parties may now or in the future hold or

have (or would apart from this Property-Linked Floating Charge hold or have) as regards the Chargor or any other person in respect of the Secured Obligations, whether by virtue of contract, statute or otherwise.

## 9. **FORBEARANCE AND ILLEGALITY**

### 9.1 **Delay etc**

All rights, powers and privileges under this Property-Linked Floating Charge shall continue in full force and effect, regardless of the Chargee exercising, delaying in exercising or omitting to exercise any of them.

### 9.2 **Illegality, invalidity, unenforceability**

Any provision of this Property-Linked Floating Charge which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Property-Linked Floating Charge.

## 10. **VARIATIONS**

No variation of this Property-Linked Floating Charge shall be valid and constitute part of this Property-Linked Floating Charge, unless such variation shall have been made in writing and signed by the Chargor and the Chargee.

## 11. **DEMANDS, NOTICES ETC**

### 11.1 **Demands**

A demand for payment or other demand or notice to the Chargor under this Property-Linked Floating Charge shall be made or given by any director or officer of the Chargee in accordance with Clause 11.2.

### 11.2 **Addresses for notice and deemed service**

Each party shall notify to the other party an authorised address and facsimile number in the United Kingdom for the purpose of this Clause and the first such authorised address for each party shall be the address and facsimile number stated in Clause 11.3. Any demand, notice, consent or approval or other communication to be given under this Property-Linked Floating Charge shall be in writing and shall either be delivered personally or sent by pre-paid first class post or facsimile transmission to the relevant party's address or facsimile number stated in Clause 11.3 (or such other address or facsimile number (in each case in the United Kingdom) as is notified in writing from time to time by such party to the other party in accordance with the requirements of this Clause). Any such notice shall be effective upon receipt and shall be deemed to have been received:

- 11.2.1 if delivered personally, at the time of delivery;
- 11.2.2 if sent by pre-paid first class post, at 17.00 hours on the day following the day of posting and shall be effective even if it is misdelivered or returned undelivered; and
- 11.2.3 if communicated by facsimile transmission, upon receipt by the sender of a facsimile transmission report (or other appropriate evidence) that the facsimile has been transmitted to the address,

PROVIDED that where, in the case of delivery by hand or facsimile transmission, delivery or transmission occurs after 6.00pm on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 9.00am on the next following Business Day.

### 11.3 **Addresses for service**

For the purposes of this Clause the authorised address of each party shall be the address set out below:

- 11.3.1 **Chargor: Standard Life Assurance Limited**  
 Address: Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH  
 Fax No: 0131 245 7955  
 Attention: Simon Burns or his successor as Company Secretary
- 11.3.2 **Chargee: The Law Debenture Trust Corporation p.l.c.**  
 Address: 5<sup>th</sup> Floor, 100 Wood Street, London, EC2V 7EX  
 Fax No: 020 7606 0643  
 Attention: Manager, Commercial Trusts

## 12. **GOVERNING LAW AND JURISDICTION**

### 12.1 **Governing law**

This Property-Linked Floating Charge is governed by and shall be construed in accordance with Scots law.

### 12.2 **Jurisdiction of Scottish courts**

- 12.3 The Scottish courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Property-Linked Floating Charge, including a dispute regarding the existence, validity or discharge of this Property-Linked Floating Charge or the security comprised in it (a **Dispute**).

- 12.4 The parties agree that the Scottish courts are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

12.5 Nothing in this Clause limits the rights of the Chargee to bring proceedings against the Chargor in connection with this Property-Linked Floating Charge in any other court of competent jurisdiction or concurrently in more than one jurisdiction.

**THE SCHEDULE**  
**PROPERTY-LINKED REINSURANCE CONTRACTS**

1. The agreement entitled 'Reinsurance Agreement (Trustee Investment Plan)' entered into between Standard Life Pension Funds Limited and Standard Life Investment Funds Limited dated 10 October 2006 to the extent that it relates to liabilities in respect of Property-Linked Policies.
2. The agreement entitled 'Reassurance Policy' entered into between The Standard Life Assurance Company<sup>\*</sup> and Fidelity Investments Life Insurance Limited dated 21 April 2005 as amended by an agreement dated 22 November 2007 and 4 December 2007 by which the obligations of Standard Life Assurance Limited under that agreement were assumed by Standard Life Investment Funds Limited.
3. The agreement entitled 'Reassurance Policy' entered into between The Standard Life Assurance Company<sup>\*</sup> and Threadneedle Pensions Limited dated 3 January 2006 and numbered GBRT 101790 as amended by an agreement dated 7 and 17 October 2008 by which the obligations of Standard Life Assurance Limited under that agreement were assumed by Standard Life Investment Funds Limited.
4. The agreement entitled 'Reassurance Policy' entered into between The Standard Life Assurance Company<sup>\*</sup> and Prudential Assurance Company Limited dated 6 April 2001 and numbered GR 79000 as amended by an agreement dated 25 July and 17 October 2008 by which the obligations of Standard Life Assurance Limited under that agreement were assumed by Standard Life Investment Funds Limited.
5. The agreement entitled 'Reassurance Policy' entered into between The Standard Life Assurance Company<sup>\*</sup> and Invesco Pensions Limited dated 22 July 2003 and numbered GBRT 100861 as amended by an agreement dated 31 October and 3 November 2008 by which the obligations of Standard Life Assurance Limited under that agreement were assumed by Standard Life Investment Funds Limited. By virtue of an order of the High Court of Justice, the rights and obligations of Invesco Pensions Limited were transferred to Threadneedle Pensions Limited on 31 October 2008 pursuant to an insurance business transfer scheme under Part VII of the Financial Services and Markets Act 2000.
6. The agreement entitled 'Reassurance Policy' entered into between The Standard Life Assurance Company<sup>\*</sup> and Merrill Lynch Pensions Limited (now BlackRock Pensions Limited) dated 19 January 2006 and numbered GBRT 101819 as amended by an agreement dated 6

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<sup>\*</sup> The Standard Life Assurance Company transferred substantially all of its long-term business, including all of its rights and obligations under the agreements referred to above, to Standard Life Assurance Limited pursuant to an insurance business transfer scheme under Part VII of the Financial Services and Markets Act 2000.

and 17 May 2010 by which the obligations of Standard Life Assurance Limited under that agreement were assumed by Standard Life Investment Funds Limited.

7. The agreement entitled 'Reassurance Policy' entered into between Standard Life Investments Limited and Zurich Assurance Limited dated 26 October 2010 and numbered GBR T 103738.

In each case, as amended, supplemented or replaced from time to time.

\* The Standard Life Assurance Company transferred substantially all of its long-term business, including all of its rights and obligations under the agreements referred to above, to Standard Life Assurance Limited pursuant to an insurance business transfer scheme under Part VII of the Financial Services and Markets Act 2000.

Part 2

Security Trust Agreement

**AMENDED AND RESTATED SECURITY TRUST AGREEMENT**

between

**THE LAW DEBENTURE TRUST CORPORATION p.l.c.**  
as Security Trustee

**STANDARD LIFE ASSURANCE LIMITED**  
as Company

**STANDARD LIFE PENSION FUNDS LIMITED**  
as Instructing Parties' Agent

and

**OTHERS**  
as Beneficiaries

**Dated: 12 October 2006 and amended and restated on 27 November 2007 and as further amended and restated by an order of the Court of Session on [ ] 2011 and taking effect on [ ] 2011 pursuant to the insurance business scheme under Part VII of the Financial Services and Markets Act 2000**

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**THIS AGREEMENT was made on 12 October 2006 and amended and restated on 27 November 2007 and as further amended and restated by an order of the Court of Session in Scotland on [ ] 2011 and taking effect on [ ] 2011 pursuant to the insurance business scheme under Part VII of the Financial Services and Markets Act 2000**

**BETWEEN:**

- (1) **THE LAW DEBENTURE TRUST CORPORATION P.L.C.** (Registered Number 01675231) in its capacity as security trustee for the Secured Parties under the Floating Charge (as defined below) (the **Security Trustee**);
- (2) **STANDARD LIFE ASSURANCE LIMITED** (Registered Number SC286833) a company incorporated in Scotland with limited liability and whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh, EH1 2DH (the **Company**);
- (3) **THE BENEFICIARIES** (the **Beneficiaries**) with the initial such persons' details being more particularly set out at Schedule 1; and
- (4) **STANDARD LIFE PENSION FUNDS LIMITED** (Registered Number SC046447) a company incorporated in Scotland with limited liability and whose registered office is at Standard Life House, 30 Lothian Road, Edinburgh, EH1 2DH in its capacity as agent of the Instructing Parties (as defined below) (the **Instructing Parties' Agent**).

**AND WITNESS as follows:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

Terms defined in the Floating Charge shall, unless otherwise defined in this Agreement, have the same meaning when used in this Agreement and in addition:

**Accession Undertaking** means a Beneficiary Accession Undertaking or an Instructing Parties' Agent Accession Undertaking (as the case may be);

**Beneficiaries** means the persons being named as Beneficiaries in Schedule 1 and any person who becomes a beneficiary as a result of executing and delivering to the Instructing Parties' Agent a Beneficiary Accession Undertaking but excluding any such person who has ceased to be a party to a Property-Linked Reinsurance Contract;

**Beneficiary Accession Undertaking** means an undertaking in substantially the form set out in Schedule 2 (*Form of Beneficiary Accession Undertaking*) or any other form agreed between the Instructing Parties' Agent and the Security Trustee;

**Beneficiaries' Share** means, in relation to a Beneficiary, the proportion of the Property-Linked Secured Amount or Interim Beneficiaries Proceeds that the Property-Linked Reinsured Liabilities at the Valuation Time under the Property-Linked Reinsured Contract(s) issued to that Beneficiary bear to the total Property-Linked Reinsured Liabilities at the Valuation Time;

**Chargee Sums** means Chargee Sums as such term is defined in the Floating Charge;

**Default** means any event causing or giving rise to the crystallisation of the floating charge under Clause 3.2 of the Floating Charge;

**Delegate** means any delegate, agent, attorney or co-trustee appointed by the Security Trustee;

**Finance Documents** means, together:

- a) this Agreement; and
- b) the Floating Charge.

**Floating Charge** means the property-linked floating charge granted by the Company to the Security Trustee as security trustee for the Beneficiaries in relation to the Property-Linked Reinsurance Liabilities, on or around the date of this Agreement;

**Instructing Parties** means a Beneficiary or Beneficiaries holding not less than 66<sup>2</sup>/<sub>3</sub>% of the Reinsured Liabilities from time to time;

**Instructing Parties' Agent** means Standard Life Pension Funds Limited (or any successor thereof);

**Instructing Parties' Agent Accession Undertaking** means an undertaking in substantially the form set out in Schedule 3 (*Form of Instructing Parties' Agent Accession Undertaking*) or any other form agreed between the Instructing Parties' Agent and the Security Trustee;

**Interim Beneficiaries Proceeds** means the Interim Proceeds multiplied by the Reinsured Proportion;

**Interim Proceeds** means, at any time, the aggregate at any time of all monies and/or other assets received or recovered by the Security Trustee (or on its behalf) in connection with the realisation of (only) part of the Property-Linked Charged Property, less:

- a) the aggregate of any Reinsured Interim Distribution and any Non-Reinsured Interim Distribution which have been made up to that date; and
- b) the aggregate of any amounts paid or payable to the Security Trustee (in its capacity as Security Trustee) or to any Receiver or Delegate or administrator or liquidator of the Company up to that date; and
- c) such provision as any administrator or liquidator of the Company thinks fit for a sum which is, or may be, owed to the unsecured creditors of the Company under Section 176A of the Insolvency Act 1986.

**Non-Reinsured Interim Distribution** means an amount equal to;  
 Reinsured Interim Distribution x 
$$\frac{(\text{the Property-Linked Liabilities at the Valuation Time} - \text{the Property-Linked Reinsured Liabilities at the Valuation Time})}{\text{the Property-Linked Reinsured Liabilities at the Valuation Time}}$$

**Property-Linked Charged Property** means the Property-Linked Charged Property as that term is defined in the Floating Charge;

**Property-Linked Liabilities** means the Property-Linked Liabilities as that term is defined in the Floating Charge;

**Property-Linked Reinsurance Contracts** means the Property-Linked Reinsurance Contracts as that term is defined in the Floating Charge;

**Property-Linked Reinsured Liabilities** means the Property-Linked Reinsured Liabilities as that term is defined in the Floating Charge;

**Property-Linked Secured Amount** means the Property-Linked Secured Amount as that term is defined in the Floating Charge;

**Reinsured Interim Distribution** means a distribution made to the Beneficiaries pursuant to Clause 3.1.(A);

**Reinsured Proportion** means the Reinsured Proportion as that term is defined in the Floating Charge;

**Receiver** means any one or more receivers and/or managers or administrative receivers (whether appointed pursuant to this Agreement or pursuant to any statute, by a court or otherwise) of all or any of the Property-Linked Charged Property;

**Secured Parties** means each of the Beneficiaries and the Security Trustee (acting in that capacity);

**Security** means any and all Security Interests (as defined in the Floating Charge) created under the Floating Charge by the Company in favour of the Security Trustee;

**Total Proceeds** means the Total Proceeds as such term is defined in the Floating Charge;

**Valuation Time** means the Valuation Time as that term is defined in the Floating Charge.

## 1.2 Interpretation

In this Agreement:

1.2.1 references to any party shall be construed so as to include that party's respective successors in title, permitted assigns and permitted transferees;

- 1.2.2 "including" and "in particular" shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing";
- 1.2.3 a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- 1.2.4 "variation" includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and "vary" and "varied" shall be construed accordingly;
- 1.2.5 "writing" includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Agreement to be signed and "written" has a corresponding meaning;
- 1.2.6 subject to Clause 11.1, references to this Agreement or to any other document include references to this Agreement or such other document as varied in any manner from time to time;
- 1.2.7 the singular shall include the plural and vice versa; any gender shall include the other genders; clauses shall be construed as references to clauses of this Agreement;
- 1.2.8 any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force;
- 1.2.9 headings in this Agreement are inserted for convenience and shall not affect its interpretation; and
- 1.2.10 references in this Agreement to any Clause or any Schedule or part thereof shall be to a clause or schedule or part thereof contained in this Agreement.

## **2. TRUST FOR THE SECURED PARTIES**

### **2.1 Trust**

The Security Trustee declares that it shall hold the Floating Charge on trust for the Secured Parties on the terms contained in this Agreement. Each of the parties to this Agreement agrees that the Security Trustee shall have only those duties, obligations and responsibilities expressly specified in the Floating Charge and in this Agreement (and no others shall be implied).

## 2.2 **No Independent Power**

The Beneficiaries shall not have any independent power to enforce, or have recourse to, any of the Security or to exercise any rights or powers pursuant to the Floating Charge except through the Security Trustee.

## 3. **APPLICATION OF TOTAL PROCEEDS**

### 3.1 **Order of Application**

The Total Proceeds shall be held by the Security Trustee on trust to apply them at such times as the Security Trustee sees fit, to the extent permitted by applicable law, in the following order of priority:

- 3.1.1 to the Security Trustee in discharging any Chargee Sums owing to the Security Trustee (in its capacity as trustee), any Receiver or to any Delegate or to any administrator or to any liquidator;
- 3.1.2 in distributing to each Beneficiary, its Beneficiary Share of the Property-Linked Secured Amount, that distribution being in the discharge of the Property-Linked Secured Amount in respect of its Property-Linked Reinsurance Contract;
- 3.1.3 any distribution under Clause 3.1.3 shall be under deduction of any Reinsured Interim Distribution made under Clause 3.1.(A).1;
- 3.1.4 the balance in payment to the Company (or the liquidator or administrator of the Company).

### 3.1(A). **Interim Distributions**

- 3.1(A).1 The Security Trustee or administrator or liquidator of the Company may at such time as it sees fit make one or more distributions to the Beneficiaries only out of the Interim Beneficiaries Proceeds.
- 3.1(A).2 Each Beneficiary shall receive from such a distribution its Beneficiaries Share of the Interim Beneficiaries Proceeds being distributed, that distribution being in partial discharge of the Property-Linked Secured Amount in respect of its Property-Linked Reinsurance Contract.
- 3.1(A).3 The Security Trustee shall make a distribution to the Beneficiaries pursuant to Clause 3.1(A).1 and 3.1(A).2 only if at the same time it makes to the Company (or the liquidator or administrator of the Company) a Non-Reinsured Interim Distribution.

### 3.2 **Investment of Proceeds**

Prior to the application of the Total Proceeds in accordance with Clause 3.1 (*Order of Application*) the Security Trustee may, at its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies at the Security Trustee's discretion in accordance with the provisions of this Clause 3.

### 3.3 **Currency Conversion**

For the purpose of or pending the discharge of any of the Property-Linked Secured Amounts the Security Trustee may convert any Interim Proceeds or the Total Proceeds from one currency to another, at the spot rate at which the Security Trustee is able to purchase the currency in which the Property-Linked Secured Amounts are due with the amount received.

### 3.4 **Permitted Deductions**

The Security Trustee shall be entitled:

3.4.1 to set aside by way of reserve amounts; and

3.4.2 to make and pay, any deductions and withholdings (on account of taxes (including VAT) or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement

and to pay all taxes (including VAT) which may be assessed against it in respect of any of the Property-Linked Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

### 3.5 **Clawback**

3.5.1 If any Beneficiary has received an amount as a result of the enforcement of the Security and the Security Trustee on its behalf is subsequently required to pay that amount to a liquidator (or any other party) pursuant to a court order (a **Clawback Amount**), that Beneficiary will immediately pay an amount equal to such Clawback Amount to the Security Trustee for payment to the liquidator (or other relevant party).

3.5.2 Each Beneficiary that has received a Clawback Amount shall indemnify the Security Trustee against any and all costs, claims, losses, expenses (including legal fees) and liabilities together with any VAT thereon which the Security Trustee may incur with respect to that Clawback Amount otherwise than by reason of the Security Trustee's own gross negligence or wilful misconduct.

### 3.6 Sums received by Obligors

If the Company receives any sum which, pursuant to the Floating Charge, should have been paid to the Security Trustee, that sum shall be held by the Company on trust for the Beneficiaries and shall as soon as practicably possible be paid to the Security Trustee for application in accordance with this Clause 3.

## 4. SECURITY TRUSTEE'S ACTIONS

### 4.1 Security Trustee's Instructions

4.1.1 The Security Trustee shall except as otherwise provided, act in accordance with any written instructions given to it by the Instructing Parties' Agent and shall be entitled to assume that:

- (a) any written instructions received from the Instructing Parties' Agent are duly given by or on behalf of the relevant Instructing Parties;
- (b) unless it has received actual notice of revocation, that any written instructions or directions given by the Instructing Parties' Agent have not been revoked;
- (c) any written instructions received from the Beneficiaries are duly given by or on behalf of the Beneficiaries; and

4.1.2 The Security Trustee shall be entitled to request written instructions, or clarification of any direction, from the Instructing Parties' Agent as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers and discretions and the Security Trustee may refrain from acting unless and until those written instructions or clarification are received by it.

### 4.2 Security Trustee's Actions

Subject to the provisions of this Clause 4:

4.2.1 the Security Trustee may, in the absence of any instructions to the contrary, take such action in the exercise of any of its duties under the Finance Documents which in its absolute discretion it considers to be for the protection and benefit of all the Beneficiaries, including, for the avoidance of doubt, taking enforcement action under the Floating Charge;

4.2.2 at any time after a Default the Security Trustee may exercise all or any of its rights, remedies, powers or discretions under the Floating Charge, and the Security Trustee may, and shall if so directed by the Instructing Parties' Agent, take such action as in its sole discretion it thinks fit to enforce the Security; and

- 4.2.3 on the occurrence of a Default, the Instructing Parties' Agent shall take whatever action it considers expedient to authorise the Security Trustee to take any action under this Clause 4.2.

#### 4.3 **Security Trustee's Discretions**

The Security Trustee may:

- 4.3.1 assume unless it has, in its capacity as trustee for the Secured Parties, received actual notice to the contrary that in:
- 4.3.2 no Default has occurred and the Company is not in breach of or default under its obligations under the Floating Charge; and;
- 4.3.3 any right, power, authority or discretion vested by the Floating Charge in any person has not been exercised;
- 4.3.4 if it receives any instructions or directions from the Instructing Parties' Agent to take any action in relation to the Security, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied and that, unless otherwise specified by the Instructing Parties' Agent, are given in its capacity as the Instructing Parties' Agent;
- 4.3.5 engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts (whether obtained by the Security Trustee, the Company, the Instructing Parties' Agent or by any other Beneficiary) whose advice or services may at any time seem necessary, expedient or desirable;
- 4.3.6 rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of the Instructing Parties' Agent or a Beneficiary or the Company, upon a certificate signed by or on behalf of that person; and
- 4.3.7 refrain from acting in accordance with the instructions of any person (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received such indemnification and/or security as it may in its absolute discretion require (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in acting in accordance with such instructions or in bringing such action or proceedings.

#### 4.4 **Security Trustee's Obligations**

The Security Trustee shall promptly inform the Beneficiaries of:

- 4.4.1 the contents of any written notice or document received by it in its capacity as Security Trustee from the Company under the Finance Documents; and

4.4.2 the occurrence of any Default or any default by the Company in the due performance of or compliance with its obligations under the Finance Documents of which the Security Trustee has received written notice from any other party.

#### 4.5 **Excluded Obligations**

Notwithstanding anything to the contrary expressed or implied in any Finance Document, the Security Trustee shall not:

- 4.5.1 be obliged to make any enquiry as to any default by the Company in the performance or observance of any provision of any Finance Document or as to whether any event or circumstance has occurred as a result of which the Security shall have or may become enforceable;
- 4.5.2 be bound to account to any Beneficiary for any sum or the profit element of any sum received by it for its own account;
- 4.5.3 be bound to disclose to any other person (including any Beneficiary);
- 4.5.4 any confidential information; or
- 4.5.5 any other information if disclosure would or might in its reasonable opinion constitute a breach of any law or be a breach of fiduciary duty;
- 4.5.6 be liable to any of the Beneficiaries for any action taken or omitted under or in connection with any of the Finance Documents unless caused by its fraud, gross negligence or wilful misconduct;
- 4.5.7 have or be deemed to have any duty, obligation or responsibility to, or relationship of trust or agency with, the Company; or
- 4.5.8 be obliged to take any action in relation to enforcing or perfecting any charge over any shares in a company registered or incorporated with unlimited liability.

#### 4.6 **Exclusion of Security Trustee's Liability**

Unless caused directly by its gross negligence or wilful misconduct the Security Trustee shall not accept responsibility or be liable for:

- 4.6.1 the adequacy, accuracy and/or completeness of any information supplied by the Security Trustee or any other person in connection with the Finance Documents or the transactions contemplated therein, or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection therewith;
- 4.6.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Security or any other agreement, arrangement or document

entered into, made or executed in anticipation of, pursuant to or in connection therewith;

4.6.3 any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Finance Documents or the Security or otherwise, whether in accordance with an instruction from the Instructing Parties' Agent or otherwise;

4.6.4 the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Finance Documents, the Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection therewith; or

4.6.5 any shortfall which arises on the enforcement of the Security,

and each of the Beneficiaries agrees that it will not assert or seek to assert against any officer, employee or agent of the Security Trustee any claim it might have against any of them in respect of the matters referred to in this Clause 4.

#### 4.7 **Own Responsibility**

It is understood and agreed by each Beneficiary that at all times that Beneficiary has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigation into all risks arising under or in connection with the Finance Documents including but not limited to:

4.7.1 the financial condition, creditworthiness, condition, affairs, status and nature of the Company;

4.7.2 the legality, validity, effectiveness, adequacy and enforceability of each of the Finance Documents and the Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents;

4.7.3 whether that Beneficiary has recourse, and the nature and extent of that recourse, against the Company or any other person or any of their respective assets under or in connection with the Finance Documents or the transactions contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents;

4.7.4 the adequacy, accuracy and/or completeness of any information provided by any person in connection with the Finance Documents or the transactions contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents; and

4.7.5 the right or title of any person in or to, or the value or sufficiency of any part of the Property-Linked Charged Property, the priority of any of the Security or the existence of any Security Interest affecting the Property-Linked Charged Property,

and each Beneficiary warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

#### 4.8 **No responsibility to perfect Security**

The Security Trustee shall not be liable for any failure to:

4.8.1 require the deposit with it of any deed or document certifying, representing or constituting the title of the Company to any of the Property-Linked Charged Property;

4.8.2 obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or the Security;

4.8.3 register, file or record or otherwise protect any of the Security (or the priority of any of the Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of the Security;

4.8.4 take, or to require the Company to take, any steps to perfect its title to any of the Property-Linked Charged Property or to render the Security effective or to secure the creation of any ancillary Security Interest under the laws of any jurisdiction; or

4.8.5 require any further assurances in relation to any of the Finance Documents.

#### 4.9 **Insurance by Security Trustee**

The Security Trustee shall not be under any obligation to insure any of the Property-Linked Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Floating Charge. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance. Where the Security Trustee is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Instructing Parties' Agent shall have requested it to do so in writing and the Security Trustee shall have failed to do so within fourteen days after receipt of that request.

#### 4.10 **Safekeeping**

The Security Trustee shall, acting reasonably, be at liberty to place (at the cost of the Company) any of the Finance Documents and any other documents or deeds relating to the

Security in any safe custody selected by the Security Trustee (acting reasonably) or with any financial institution, any company whose business includes the safe custody of documents or any firm of lawyers of good repute and the Security Trustee shall not be responsible for, or required to insure against, any loss incurred in connection with that deposit.

#### 4.11 **Acceptance of Title**

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, such right and title as the Company may have to any of the Property-Linked Charged Property and shall not be liable for or bound to require the Company to remedy any defect in its right or title.

#### 4.12 **Refrain from Illegality**

The Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law of any jurisdiction which would or might otherwise render it liable to any person, and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law.

#### 4.13 **Powers Supplemental**

The rights, powers and discretions conferred upon the Security Trustee by this Agreement shall be supplemental to the Trustee Act 1925 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

### 5. **RESIGNATION OF SECURITY TRUSTEE**

#### 5.1 **Resignation of Security Trustee**

The Security Trustee may resign as trustee at any time without assigning any reason by giving not less than ninety days' prior notice to that effect to each of the other parties to this Agreement (save that the other parties waive the requirement for prior notice if it is necessary for the Security Trustee to resign to comply with law or in the event of any illegality) provided that no such resignation shall be effective until:

5.1.1 a successor to the Security Trustee is appointed in accordance with the terms of this Agreement; and

5.1.2 all of the Security has been transferred to its successor.

#### 5.2 **Removal of Security Trustee**

The Instructing Parties' Agent may remove the Security Trustee from its role as trustee under this Agreement by giving notice to that effect to each of the other parties to this Agreement. That removal shall take effect only when a successor to the Security Trustee is appointed in accordance with the terms of this Agreement.

### 5.3 **Successor Security Trustee**

If the Security Trustee gives notice of its resignation as trustee pursuant to Clause 5.1 (*Resignation of Security Trustee*) or it is removed as trustee then any reputable and experienced bank or other financial institution may be appointed as a successor to the Security Trustee by the Instructing Parties' Agent during the period of that notice but, if no successor is so appointed, the Security Trustee may appoint a successor itself.

### 5.4 **Rights and Obligations**

If a successor to the Security Trustee is appointed under the provisions of Clause 5.3 (*Successor Security Trustee*), then:

5.4.1 the resigning or departing Security Trustee shall be discharged from any further obligation under this Agreement but shall remain entitled to the benefit of Clause 4 (*Security Trustee's Actions*) and this Clause 5; and

5.4.2 its successor and each of the other parties to this Agreement shall have the same rights and obligations amongst themselves as they would have had if that successor had been a party to this Agreement.

## 6. **CHANGE OF PARTY**

### 6.1 **Beneficiary Accession Undertaking**

Any person which enters into a Property-Linked Reinsurance Contract shall be entitled to become a Beneficiary and to participate in the Floating Charge as a Secured Party by executing and delivering to the Instructing Parties' Agent a Beneficiary Accession Undertaking and with effect from the "Accession Date" (being the later of the date of countersigning by the Company and the Security Trustee and the date specified in that Beneficiary Accession Undertaking) the additional or replacement Beneficiary shall assume the same obligations, and become entitled to the same rights, as a Beneficiary under this Agreement as if it had been an original party to this Agreement as such a Beneficiary.

### 6.2 **Instructing Parties' Agent Accession Undertaking**

The Beneficiaries shall ensure that any person which accepts its appointment as an Instructing Parties' Agent shall execute and deliver an Instructing Parties' Agent Accession Undertaking and with effect from the "Accession Date" (being the later of the date of countersigning by the Company and the Security Trustee and the date specified in that Instructing Parties' Agent Accession Undertaking) such new Instructing Parties' Agent shall assume the same obligations, and become entitled to the same rights as the Instructing Parties' Agent under this Agreement as if it had been an original party to this Agreement as such an Instructing Parties' Agent and the existing Instructing Parties' Agent shall cease to act in that capacity with effect from the Accession Date.

### 6.3 **Security Trustee countersign**

The Security Trustee will execute as soon as reasonably practicable an Accession Undertaking delivered to it and which appears on its face to be in order provided always that the Security Trustee's execution of such an undertaking will not be implied to be a vetting or approval of such acceding party on behalf of any party to this Agreement.

### 6.4 **Authority to Security Trustee to countersign**

Each party hereto (other than the Company) irrevocably authorises the Security Trustee to execute any duly completed Accession Undertaking on its behalf.

### 6.5 **Security Trustee to notify the Instructing Parties' Agent**

The Security Trustee will, as soon as reasonably practicable after it has executed an Accession Undertaking, send to the Instructing Parties' Agent a copy of that Accession Undertaking.

### 6.6 **Company and Instructing Parties' Agent notification obligation**

The Company and each Beneficiary will, as soon as reasonably practicable after it becomes aware that no further Secured Amounts will become due and payable to such Beneficiary from the Company, notify the Instructing Parties' Agent in writing of that fact. The Instructing Parties' Agent will promptly on receipt of such notice notify the Security Trustee in writing that it has received such notice and from the date of actual receipt by the Security Trustee of such notice the relevant Beneficiary will cease to be a Beneficiary.

## 7. **DELEGATION AND ADDITIONAL SECURITY TRUSTEES**

### 7.1 **Delegation**

The Security Trustee may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents and such delegation may be made upon such terms and conditions (including the power to sub-delegate) and subject to such restrictions as the Security Trustee may think fit in the interest of the Beneficiaries and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

### 7.2 **Additional Security Trustees**

The Security Trustee may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:

7.2.1 if it considers such appointment to be in the interests of the Beneficiaries; or

7.2.2 for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Trustee deems to be relevant; or

7.2.3 for obtaining or enforcing any judgment in any jurisdiction, and the Security Trustee shall give prior notice to the Company and the Beneficiaries of any such appointment.

Any person so appointed (subject to the terms of this Agreement) shall have such rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Agreement) and such duties and obligations as are conferred or imposed by the instrument of appointment. The remuneration the Security Trustee may pay to any such person, and any costs and expenses incurred by such person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Trustee.

## **8. FEES AND EXPENSES**

### **8.1 Security Trustee's Ongoing Fees**

In the event of:

8.1.1 the occurrence of a Default; or

8.1.2 the Security Trustee considering it necessary or expedient; or

8.1.3 the Security Trustee being requested by the Company to undertake duties which the Security Trustee and the Company agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Trustee under the Finance Documents,

the Company shall pay to the Security Trustee such additional remuneration (together with any applicable VAT) as may be agreed between them. If the Security Trustee and the Company fail to agree upon the nature of such duties or upon such additional remuneration, that dispute shall be determined by a Queen's Counsel (acting as an expert and not as an arbitrator) selected by the Security Trustee and approved by the Company or, failing such approval, nominated (on the application of the Security Trustee) by the President for the time being of the Law Society of Scotland (the costs of such nomination and of the Queen's Counsel being payable by the Company) and the determination of any such Queen's Counsel shall, in the absence of manifest error, be final and binding upon the parties to this Agreement.

## 8.2 **Transaction and Enforcement Expenses**

The Company shall, from time to time on demand of the Security Trustee, reimburse the Security Trustee:

- 8.2.1 for all reasonable costs and expenses (including legal fees) properly incurred by the Security Trustee, a Receiver or any Delegate in connection with the negotiation, preparation and execution of this Agreement and the Floating Charge and the completion of the transactions and perfection of the security contemplated in the Floating Charge; and
- 8.2.2 on a full indemnity basis, for all costs and expenses (including legal fees) incurred by the Security Trustee, a Receiver or any Delegate in connection with the exercise, preservation and/or enforcement of any of the rights, powers and remedies of the Security Trustee, of the Security and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security or of enforcing those rights, powers and remedies,

in each case, together with any applicable VAT incurred.

## 8.3 **Stamp Taxes**

The Company shall pay all stamp, registration, notarial and other taxes or fees to which this Agreement, the Security or any judgment given in connection with them, is or at any time may be, subject and shall, from time to time, indemnify the Security Trustee on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or any delay in paying any such tax or fee.

## 8.4 **Interest on Demands**

If the Company fails to pay any sum on the due date for payment of that sum the Company shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate of 1% above the base rate of Bank of Scotland plc as that rate varies from time to time.

## 9. **INDEMNITIES**

The Company shall indemnify the Security Trustee and every Receiver and Delegate against all costs, claims, losses, expenses (including legal fees) and liabilities (together with any applicable VAT), incurred by any of them in relation to or arising out of:

- 9.1.1 any failure by the Company to comply with obligations under Clause 8 (*Fees and Expenses*);
- 9.1.2 the protection or enforcement of the Security;

- 9.1.3 the exercise of any of the rights, powers, discretions and remedies vested in any of them by the Finance Documents or by law;
- 9.1.4 any default by the Company in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or
- 9.1.5 otherwise in relation to any of the Security or the performance of the terms of this Agreement,

in each case other than as a result of the Security Trustee's gross negligence or wilful misconduct. The Security Trustee may, in priority to any payment to the Beneficiaries, indemnify itself out of the Property-Linked Charged Property in respect of, and pay and retain, all sums necessary to give effect to this indemnity from the Company and shall have a lien on the Security and the proceeds of the enforcement of the Security for all moneys payable to it under this Clause.

## 10. **CALCULATION OF SECURED AMOUNT**

Without limitation to Clause 4.7 (*Own Responsibility*), each of the Parties (other than the Security Trustee) agrees and acknowledges for the benefit of the Security Trustee that:

- 10.1 the determination at any time of the Property-Linked Secured Amount and the Beneficiaries' Share of each of the Beneficiaries relies upon:
  - 10.1.1 the records kept by the Company (or its liquidator, administrator or receiver); and
  - 10.1.2 certain calculations being made by the Company with respect to the value of the underlying Property-Linked Reinsurance Contracts (which form part of such records),

and such determination and calculations are matters covered by Clause 4.7.4; and

- 10.2 as the Security Trustee has no independent means to determine or calculate those amounts, any enquiry by a Beneficiary on its proportion of the Property-Linked Secured Amount or its Beneficiaries Share (as appropriate) should be directed to the Company (or its liquidator, administrator or receiver) or each Beneficiary may, at its own cost, appoint a suitably qualified person to make all relevant determinations and calculations to determine or calculate each Beneficiary's respective proportion of the Property-Linked Secured Amount or its Beneficiaries Share and the Security Trustee shall be entitled to request the same at any time and from time to time in order to give full effect to this Agreement.

## 11. **AMENDMENTS AND RELEASES**

### 11.1 **Amendments**

Unless the provisions of any Finance Document expressly provide otherwise, the Company and the Security Trustee, may amend the terms of, waive any of the requirements of, or grant consents under, this Agreement or the Floating Charge, any such amendment, waiver or consent being binding on all the parties to this Agreement and the Security Trustee shall be under no liability whatsoever in respect thereof **provided that**:

- 11.1.1 the prior consent of all the Beneficiaries is required to authorise any amendment of the Floating Charge which would affect the nature or the scope of the Charged Property or the crystallisation events under the Floating Charge; and
- 11.1.2 the prior consent of all of the Beneficiaries is required to authorise any amendment of the Floating Charge which would affect the manner in which the proceeds of enforcement are distributed or any amendments of this Clause 11.1; and
- 11.1.3 no new or additional obligations may be imposed upon any person without the consent of that person and any amendment or waiver which relates to the rights or obligations of the Security Trustee shall not be effective without the consent of the Security Trustee.

### 11.2 **Releases**

Upon:

- 11.2.1 a disposal of any of the Property-Linked Charged Property pursuant to the enforcement of the Security by a Receiver or the Security Trustee; or
- 11.2.2 a disposal of any of the Property-Linked Charged Property, if such disposal is otherwise permitted under the Finance Documents,

the Security Trustee shall (at the cost of the Company) release that property from the Security and is authorised to execute, without the need for any further authority from the Beneficiaries, any release of the Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

## 12. **MISCELLANEOUS**

### 12.1 **Beneficiaries' Information**

The Instructing Parties' Agent shall furnish to the Security Trustee and each of the Beneficiaries shall furnish to the Instructing Parties' Agent, such information as the Security Trustee and/or the Instructing Parties' Agent may reasonably specify as being necessary or desirable to enable the Security Trustee to perform its functions as trustee and the Instructing Parties' Agent to perform its functions.

## 12.2 **Company's Waiver**

The Company hereby waives, to the extent permitted under applicable law, all rights it may otherwise have to require that the Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Security or any other Security Interest, which is capable of being applied in or towards discharge of any of the Property-Linked Secured Amount is so applied.

## 12.3 **Instructing Parties' instructions**

12.3.1 Unless a contrary indication appears in a Finance Document, the Instructing Parties' Agent shall (i) exercise any right, power, authority or discretion vested in it as the Instructing Parties' Agent in accordance with any instructions given to it by the Instructing Parties (or, if so instructed by the Instructing Parties, refrain from exercising any right, power, authority or discretion vested in it as the Instructing Parties' Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Instructing Parties.

12.3.2 Any instructions given by the Instructing Parties will be binding on all the Beneficiaries.

12.3.3 The Instructing Parties' Agent may refrain from acting in accordance with the instructions of the Instructing Parties (or, if appropriate, the Beneficiaries) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

12.3.4 In the absence of instructions from the Instructing Parties (or, if appropriate, the Instructing Parties) the Instructing Parties' Agent may act (or refrain from taking action) as it considers to be in the best interest of the Beneficiaries.

## 12.4 **Replacement of Instructing Parties' Agent**

Beneficiaries representing not less than  $66\frac{2}{3}\%$  of the Property-Linked Secured Amount may, by notice, instruct the relevant Instructing Parties' Agent to resign and appoint a successor Instructing Parties' Agent acting through an office in the United Kingdom. Upon the appointment of a successor and that successor's accession to this Agreement, the retiring Instructing Parties' Agent shall be discharged from any further obligation in respect of the Finance Documents. Its successor and each of the other parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original party.

## 12.5 **Details of an Instructing Parties' Agent**

If the address or contact details for an Instructing Parties' Agent shall change or be varied from those previously notified by the Instructing Parties' Agent to the Security Trustee, the

Instructing Parties' Agent shall promptly notify the Security Trustee and the Beneficiaries in writing of such change or variation.

#### 12.6 **Relationship with the Beneficiaries**

Unless the provisions of any Finance Document expressly provide otherwise, each Beneficiary will deal and communicate with the Security Trustee exclusively through the Instructing Parties' Agent and will not deal or communicate directly with the Security Trustee.

### 13. **REMEDIES AND WAIVERS, PARTIAL INVALIDITY**

#### 13.1 **Remedies and Waivers**

No failure to exercise, or any delay in exercising, on the part of any Beneficiary, any right or remedy under this Agreement shall operate as a waiver of that right or remedy, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

#### 13.2 **Partial Invalidity**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

### 14. **NOTICES**

#### 14.1 **Notices**

A notice to any party under this Agreement shall be made or given by any director or officer of a party in accordance with Clause 14.2.

#### 14.2 **Addresses for notice and deemed service**

Each party shall notify to the other party an authorised address and facsimile number in the United Kingdom for the purpose of this Clause and the first such authorised address for each party shall be the address and facsimile number stated in Clause 14.3. Any demand, notice, consent or approval or other communication to be given under this Agreement shall be in writing and shall either be delivered personally or sent by pre-paid first class post or facsimile transmission to the relevant party's address or facsimile number stated in Clause 14.3 (or such other address or facsimile number (in each case in the United Kingdom) as is notified in writing from time to time by such party to the other party in accordance with the requirements of this Clause). Any such notice shall be effective upon receipt and shall be deemed to have been received:

- 14.2.1 if delivered personally, at the time of delivery;
- 14.2.2 if sent by pre-paid first class post, at 17.00 hours on the day following the day of posting and shall be effective even if it is misdelivered or returned undelivered; and
- 14.2.3 if communicated by facsimile transmission, upon receipt by the sender of a facsimile transmission report (or other appropriate evidence) that the facsimile has been transmitted to the address,

PROVIDED that where, in the case of delivery by hand or facsimile transmission, delivery or transmission occurs after 6.00 p.m. on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 9.00 a.m. on the next following Business Day.

#### 14.3 **Addresses for service**

For the purposes of this Clause the authorised address of each party shall be the address set out below:

- 14.3.1 Company: Standard Life Assurance Limited  
 Address: Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH  
 Fax No: 0131 245 7955  
 Attention: Simon Burns or his successor as Company Secretary
- 14.3.2 Security Trustee The Law Debenture Trust Corporation p.l.c.  
 Address: 5th Floor, 100 Wood Street, London EC2V 7EX  
 Fax No: 020 7606 0643  
 Attention: Attn Manager, Commercial Trusts
- 14.3.3 Standard Life Pension Funds Limited as a Beneficiary and the Instructing Parties' Agent  
 Address: Standard Life House, 30 Lothian Road, Edinburgh, EH1 2DH  
 Fax No: 0131 245 7955  
 Attention: Gillian McGovern or her successor as Company Secretary

### 15. **WINDING-UP OF TRUST AND PERPETUITY PERIOD**

#### 15.1 **Winding up of Trust**

If the Security Trustee, determines that:

- 15.1.1 all of the Property-Linked Secured Amount and all other obligations secured by the Floating Charge have been fully and finally discharged; and

15.1.2 none of the Beneficiaries is under any commitment, obligation or liability (whether actual or contingent) to make advances or provide other financial accommodation to the Company pursuant to the Floating Charge the trusts set out in this Agreement shall be wound up. At that time the Security Trustee shall release, without recourse or warranty, all of the Security then held by it and the rights of the Security Trustee under the Floating Charge, at which time each of the Security Trustee, the Beneficiaries and the Company shall be released from its obligations under this Agreement (save for those which arose prior to such winding up).

15.2 **Perpetuity Period**

The perpetuity period under the rule against perpetuities, if applicable to this Agreement, shall be the period of eighty years from the date of this Agreement.

16. **FLOATING CHARGE TO PREVAIL**

Notwithstanding anything contained in this Agreement to the contrary:

16.1.1 in the event of any inconsistency between the terms of this Agreement and the terms of the Floating Charge, the terms of the Floating Charge shall prevail; and

16.1.2 any act or step which is permitted under the Floating Charge shall be permitted under the terms of this Agreement and no such act or step shall constitute a breach of any provision of this Agreement.

17. **GOVERNING LAW**

This Agreement is governed by Scots law.

18. **JURISDICTION**

18.1 **Courts**

The parties hereto agree that the courts of Scotland have exclusive jurisdiction to settle any disputes (a **Dispute**) arising out of, or connected with, this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity) and, for such purposes, irrevocably submits to the jurisdiction of such courts.

18.2 **Waiver**

Each of the Company and the Beneficiaries irrevocably waives any objection which it might now or hereafter have to proceedings being brought or Disputes settled in the courts of Scotland and agrees not to claim that any such court is an inconvenient or inappropriate forum.

**18.3 Exclusive Jurisdiction**

This Clause 18 is for the benefit of the Secured Parties only. As a result and notwithstanding Clause 18.1 (*Courts*), it does not prevent any Secured Party from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Secured Parties may take concurrent proceedings in any number of jurisdictions.

**SCHEDULE 1**  
**THE BENEFICIARIES**

1. Standard Life Pension Funds Limited.
2. Fidelity Investments Life Insurance Limited.
3. Threadneedle Pensions Limited.
4. Prudential Assurance Company Limited.
5. BlackRock Pensions Limited.
6. Zurich Assurance Limited.

**SCHEDULE 2**  
**FORM OF BENEFICIARY ACCESSION UNDERTAKING**

To: The Law Debenture Trust Corporation p.l.c., for itself and each of the other parties to the Security Trust Agreement referred to below; and

To: Standard Life Assurance Limited

**THIS UNDERTAKING** is made on [date] by [new Beneficiary] (the **Acceding Beneficiary**) in relation to the Security Trust Agreement (the **Security Trust Agreement**) dated [12 October 2006] between The Law Debenture Trust Corporation p.l.c. as security trustee and the Company as amended and restated on 27 November 2007 and as further amended and restated by order of the Court of Session in Scotland on [ ] 2011 and taking effect on [ ] 2011 pursuant to an insurance business scheme under Part VII of the Financial Services and Markets Act 2000. Terms defined in the Security Trust Agreement shall bear the same meanings when used in this Undertaking.

In consideration of the Acceding Beneficiary becoming a Beneficiary for the purposes of the Security Trust Agreement, the Acceding Beneficiary hereby confirms that, as from [date], it intends to be party to the Security Trust Agreement as a Beneficiary, undertakes to perform all the obligations expressed in the Security Trust Agreement to be assumed by a Beneficiary and agrees that it shall be bound by all the provisions of the Security Trust Agreement, as if it had been an original party to the Security Trust Agreement.

This Undertaking shall be governed by and construed in accordance with Scots law.

**THIS UNDERTAKING** has been entered into on the date stated above.

Acceding Beneficiary

By: .....

Address for Notices: .....

Fax: .....

For attention of: .....

<p>Acknowledged by the Security Trustee: ..... for and on behalf of The Law Debenture Trust Corporation p.l.c. Date: .....</p>	<p>Acknowledged by the Company: ..... for and on behalf of Standard Life Assurance Limited Date: .....</p>
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Note: This Undertaking is to be sent by the Security Trustee to the Instructing Parties' Agent following due execution by all parties.

**SCHEDULE 3**

**FORM OF INSTRUCTING PARTIES' AGENT ACCESSION UNDERTAKING**

To: The Law Debenture Trust Corporation p.l.c., for itself and each of the other parties to the Security Trust Agreement referred to below; and

To: Standard Life Assurance Limited

**THIS UNDERTAKING** is made on [date] by [new Instructing Parties' Agent] (the **Acceding Instructing Parties' Agent**) in relation to the Security Trust Agreement (the **Security Trust Agreement**) dated [12 October 2006] between The Law Debenture Trust Corporation p.l.c. as security trustee, the Beneficiaries named therein and the Company as amended and restated on .27 November 2007 and as further amended and restated by order of the Court of Session in Scotland on [ ] 2011 and taking effect on [ ] 2011 pursuant to an insurance business scheme under Part VII of the Financial Services and Markets Act 2000. Terms defined in the Security Trust Agreement shall bear the same meanings when used in this Undertaking.

In consideration of the Acceding Instructing Parties' Agent becoming the Instructing Parties' Agent for the purposes of the Security Trust Agreement, the Acceding Instructing Parties' Agent hereby confirms that, as from [date], it intends to be party to the Security Trust Agreement as the Instructing Parties' Agent, undertakes to perform all the obligations expressed in the Security Trust Agreement to be assumed by the Instructing Parties' Agent and agrees that it shall be bound by all the provisions of the Security Trust Agreement, as if it had been an original party to the Security Trust Agreement.

This Undertaking shall be governed by and construed in accordance with Scots law.

**THIS UNDERTAKING** has been entered into on the date stated above.

Acceding Instructing Parties' Agent

By: .....

Address for Notices: .....

Fax: .....

For attention of: .....

<p>Acknowledged by the Security Trustee: ..... for and on behalf of The Law Debenture Trust Corporation p.l.c. Date: .....</p>	<p>Acknowledged by the Company: ..... for and on behalf of Standard Life Assurance Limited Date: .....</p>
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Note: This Undertaking is to be sent by the Security Trustee to the Instructing Parties' Agent following due execution by all parties.

## SCHEDULE 4

### Variations to 2006 Scheme

#### 1. General

- 1.1 A capitalised expression used in this paragraph 1 of this Schedule 4, and in the introductory words in paragraph 2.1 and paragraph 2.2 of this Schedule 4, shall have the meaning ascribed to it in the Scheme of Transfer to which this document forms Schedule 4, and in accordance with which it is intended that all of SLIF's business, and its property and liabilities, are to be transferred to SLAL.
- 1.2 With effect from the Effective Date, each of paragraph 22.1 of the 2006 Scheme and paragraph 4(A) of Schedule 3 to the 2006 Scheme shall be varied and shall otherwise continue in full force and effect on the terms set out in this Schedule 4.

#### 2. Specific variations

- 2.1 Paragraph 22.1 of the 2006 Scheme shall be varied so as to take the following form:

**"22 Reinsurance arrangements: SLIF EB Annuities Reinsurance Agreement**

22.1 *If the SLIF EB Annuities Reinsurance Agreement: (i) is terminated in accordance with its terms; or (ii) otherwise ceases to have effect as a result of a scheme of transfer pursuant to Part VII of the Act under which all or substantially all of the business of SLIF is transferred to SLAL:*

(A) *the SLAL Board shall procure that, no later than the date on which the SLIF EB Annuities Reinsurance Agreement is terminated or otherwise ceases to have effect (as the case may be), an alternative arrangement is implemented to provide reinsurance of the Reinsured Liabilities (as defined in the SLIF EB Annuities Reinsurance Agreement). Such alternative arrangement shall be on terms determined by the SLAL Board which are not materially less beneficial to the With Profits Fund than the SLIF EB Annuities Reinsurance Agreement and may, at the discretion of the SLAL Board, be provided either by a SLAL Fund (other than the With Profits Fund), a New SL Group Member and/or any other person; and*

(B) *notwithstanding paragraph 16.2(B)(iii), at the discretion of the SLAL Board:*

(i) *where the SLIF EB Annuities Reinsurance Agreement is terminated in accordance with its terms, any entitlement of SLAL to an Interim Recapture Amount, a Final Recapture Amount (in each case as defined in the SLIF EB Annuities Reinsurance Agreement) or any other amount payable because of the*

*termination of the SLIF EB Annuities Reinsurance Agreement;  
or*

- (ii) where the SLIF EB Annuities Reinsurance Agreement ceases to have effect as a result of a scheme of transfer pursuant to Part VII of the Act under which all or substantially all of the business of SLIF is transferred to SLAL, such assets (and/or rights to such assets) as are agreed between SLIF and SLAL to be of an aggregate value that is equal to the amount that would have been payable by SLIF to SLAL had the SLIF EB Annuities Reinsurance Agreement terminated in accordance with its terms,*

*shall be: (i) attributed to a SLAL Fund other than the With Profits Fund which is assuming the reinsurance obligations of SLIF in the manner contemplated by paragraph 22.1(A); or (ii) transferred to another New SL Group Member or other person who is assuming such reinsurance obligations.”*

- 2.2 Paragraph 4(A) of Schedule 3 to the 2006 Scheme shall be varied so as to take the following form:

**“4. Interpretation**

- (A) For the purposes of this Schedule 3 (Reference Period Transfer Amount), all Recourse Cashflow calculations shall be made on the basis that any amounts payable or receivable by the With Profits Fund pursuant to reassurances accepted or ceded shall be added to or deducted from (as appropriate) the relevant RCF component, save that:*

- (i) any amounts payable or receivable pursuant to reinsurance agreements with any New SL Group Member (including the SLIF EB ULP Reinsurance Agreement and the SLIF EB ULL Reinsurance Agreement); and*
- (ii) for the avoidance of doubt, any amounts payable or receivable or otherwise to be credited or debited pursuant to paragraph 24 where the Investment Element in respect of a Policy written in, allocated to or reinsured by the With Profits Fund is allocated or transferred to, or reinsured by, a SLAL Fund other than the With Profits Fund,*

*shall be disregarded.”*