

**THE ROYAL NATIONAL PENSION FUND FOR NURSES**

**- and -**

**LIVERPOOL VICTORIA LIFE COMPANY LIMITED**

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**SCHEME**

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**IN THE HIGH COURT OF JUSTICE**  
**CHANCERY DIVISION**  
**COMPANIES COURT**

**No. 6303 of 2001**

**IN THE MATTER OF THE ROYAL NATIONAL PENSION FUND FOR NURSES**

**- and -**

**IN THE MATTER OF LIVERPOOL VICTORIA LIFE COMPANY LIMITED**

**- and -**

**IN THE MATTER OF THE INSURANCE COMPANIES ACT 1982**

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**SCHEME**

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**PART A - DEFINITIONS AND INTERPRETATION**

**1. DEFINITIONS AND INTERPRETATION**

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

<b>"Act"</b>	the Insurance Companies Act 1982;
<b>"Admissible Value"</b>	a value determined in accordance with Part VIII of the Regulations or Rule 4 of the IPRU(INS) and the Valuation of Asset Rules set out in Chapter 4 of the IPRU(INS);
<b>"Appointed Actuary"</b>	the actuary from time to time appointed by, as the context requires, RNPFN or LVLC pursuant to Section 19 of the Act or Section 340 of FSMA and Rule 4.3.1 of the Supervision Manual to the FSA Handbook made under Section 138 of FSMA;
<b>"Asset Shares"</b>	asset shares determined in relation to, as the context requires, RNPFN or LVLC by the Appointed Actuary and (in the case of LVLC) maintained in accordance with the Principles of Financial Management;
<b>"Available Capital Support"</b>	the meaning given in paragraph 31.1;

<b>"Calculation Date"</b>	31 December in each calendar year, or such other date in each calendar year as represents the accounting reference date (as defined in the Companies Act 1985) of LVLC;
<b>"Capital Support Percentage"</b>	the meaning given in paragraph 31.2;
<b>"Charitable Trust"</b>	The Burdett Trust Limited, a company limited by guarantee incorporated in England with registered number 4306248;
<b>"Charity Deed"</b>	the deed to be entered into prior to the Effective Date between LVLC and the Charitable Trust in the form agreed between RNPFN, LVLC and the Charitable Trust;
<b>"Circular"</b>	the circular to be sent to policyholders of RNPFN in connection with this Scheme and the transfer of its business to LVLC;
<b>"Contingent Loan"</b>	a loan which may be advanced to LVLC pursuant to paragraph 30.2 under an agreement in the form agreed between RNPFN and LVLC or in such amended form as may be agreed by LVLC and the RNPFN Fund Supervisory Board after the Effective Date;
<b>"Contingent Loan Advance"</b>	the meaning given in paragraph 31.7;
<b>"Contingent Loan Amount"</b>	the meaning given in paragraph 31.6;
<b>"Court"</b>	the High Court of Justice in England;
<b>"Deficit"</b>	the meaning given in paragraph 30.1;
<b>"Effective Date"</b>	the time and date on which this Scheme shall become operative in accordance with paragraph 36;
<b>"Encumbrance"</b>	any mortgage, charge, pledge, 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, without limitation, title transfer and retention agreements) having a similar effect;
<b>"Enhancement"</b>	the meaning given in paragraph 33.2;
<b>"Euro"</b>	the single currency introduced by the Participating Member States on 1st January 1999 pursuant to the Treaty and applicable European Community

regulations made thereunder;

**"Excluded Policies"**

Policies under which any liability remains unsatisfied or outstanding at the Effective Date:

- (A) written by RNPFN in the course of carrying on insurance business in the United Kingdom or any other member State, in respect of which:
- (1) for the purpose of Part I of Schedule 2C to the Act a member State other than the United Kingdom is the State of the commitment; and
  - (2) the Insurance Regulator has not prior to the issue of the Order by which the Court sanctions this Scheme provided the certificate referred to in Paragraph 3(2) of Schedule 2C to the Act with respect to the relevant member State which is the State of the commitment,

and for these purposes "**member State**" and "**State of the commitment**" bear the meanings ascribed thereto by, or for the purposes of, Part I of Schedule 2C to the Act; or

- (B) written by RNPFN but which are not otherwise capable of being transferred pursuant to Schedule 2C to the Act on the Effective Date,

and any further Policy issued by RNPFN pursuant to the exercise of any right or option under an Excluded Policy, as described in paragraph 6.5;

**"Excluded Policies Reassurance Agreement"**

the reinsurance agreement to be entered into between RNPFN and LVLC in respect of Excluded Policies pursuant to paragraph 6.2 in the form agreed between RNPFN and LVLC;

**"FSMA"**

the Financial Services and Markets Act 2000;

**"Group"**

LVLC, any holding company of LVLC and any subsidiary of any such holding company from time to time;

**"Head Office Property"**

the basement and ground to fourth floors of Burdett House, 15 Buckingham Street, London WC2N 6ED;

**"Independent Actuary"**

Mr N.H. Taylor, the Actuary appointed to report on the terms of this Scheme pursuant to paragraph 2(1) of Schedule 2C to the Act;

<b>"Infrastructure"</b>	the assets, contracts and rights described in Schedule 4;
<b>"Insurance Regulator"</b>	HM Treasury or (where relevant) 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 on 19 October 2001 allocated to HM Treasury under the Act;
<b>"Intellectual Property Rights"</b>	(A) RNPFN's goodwill; and  (B) (so far as they may be legally transferred) the right for LVLC to represent itself as carrying on the Transferred Business in succession to RNPFN, and RNPFN's brand, domain name and trade marks;
<b>"IPRU(INS)"</b>	the Interim Prudential Sourcebook for Insurers;
<b>"LIBOR"</b>	the offered rate (if any) for three month sterling deposits appearing on the Telerate screen page 3750 at 11.00 a.m. on the relevant Calculation Date (or, if such day is not a business day, the immediately succeeding business day) or, if no such offered rate appears on that page, such other equivalent rate as may be agreed by the Shareholder and the RNPFN Fund Supervisory Board. Failing such agreement within 30 days following a request by either of them to the other to reach such agreement, the matter may be referred by either of them for final determination by the Umpire;
<b>"Linked Fund"</b>	an internal linked fund maintained by RNPFN prior to the Effective Date or by LVLC following the Effective Date for the purpose of calculating benefits payable under Linked Policies, other than (for the avoidance of doubt) benefits determined by reference to the value of With Profits Units;
<b>"Linked Policies"</b>	Policies under which the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the Policies) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified);
<b>"Liverpool Victoria Parties"</b>	LVLC and LVFS;
<b>"Long Term Business"</b>	the meaning ascribed by Section 1 of the Act;
<b>"Long Term Fund"</b>	the fund established and maintained by LVLC pursuant to Section 28 of the Act or Rule 3.1 of the IPRU(INS)

	in respect of Long Term Business;
<b>"LVAM"</b>	Liverpool Victoria Asset Management Limited, a company incorporated in England and Wales with registered number 3287943;
<b>"LVFS"</b>	Liverpool Victoria Friendly Society Limited, an incorporated friendly society (registered number 61 COLL);
<b>"LVLC"</b>	Liverpool Victoria Life Company Limited, a company incorporated in England and Wales with registered number 597740;
<b>"LVLC Board"</b>	the board of directors of LVLC;
<b>"Maximum Aggregate Capital Support"</b>	the meaning given in paragraph 31.3;
<b>"Minimum Solvency Margin"</b>	the minimum margin of solvency which would be required at any time for the RNPFN Fund or any of the Other Long Term Funds (as the context may require) pursuant to Section 32 of the Act or Rule 2.1 of IPRU(INS) if it comprised a free-standing life insurance company whose liabilities were those allocated at that time to the relevant fund or sub-fund;
<b>"New LVLC Articles"</b>	the proposed articles of association of LVLC in the form agreed between RNPFN and LVLC;
<b>"New Investment Management Agreement"</b>	the agreement dated 6 July 2001 entered into between LVAM and RNPFN for the provision of investment management services to RNPFN;
<b>"Notional Lease Terms"</b>	the heads of terms for the notional lease of the Head Office Property deemed to be effective in accordance with paragraph 27.8 in the form agreed between LVLC and RNPFN;
<b>"Order"</b>	an order made by the Court pursuant to Part I of Schedule 2C to the Act and/or Section 111(1) of the FSMA sanctioning this Scheme and any order (including any subsequent order) in relation to this Scheme made by the Court pursuant to paragraph 5 of Schedule 2C to the Act and/or Section 112(1) of the FSMA;
<b>"Other Funds"</b>	LVLC's funds other than the RNPFN Fund;
<b>"Other Long Term Funds"</b>	LVLC's funds from time to time within the Long Term Fund other than the RNPFN Fund;
<b>"Participating Member"</b>	a member State of the European Community



<b>"State"</b>	established by the Treaty which adopts the Euro as the single currency in accordance with the Treaty;
<b>"Policy"</b>	the meaning set out in Section 96(1) of the Act or Section 424(2) of FSMA and Article 2 of the Financial Services and Markets Act 2000 (meaning of "Policy" or "Policyholder") Order 2001 and including at any time any constituent part of a Policy which in the opinion of the Appointed Actuary gives rise to any separately identifiable benefit;
<b>"Principles of Financial Management"</b>	the principles of financial management set out in Schedule 2;
<b>"Regulations"</b>	the Insurance Companies Regulations 1994;
<b>"Regulatory Body"</b>	Personal Investment Authority Limited (" <b>PIA</b> ") and any other governmental, statutory or other authority as shall from time to time carry out such functions in relation to the business of LVLC as were on 19 October 2001 carried out by PIA pursuant to the Financial Services Act 1986 in relation to the business of RNPFN;
<b>"Regulatory Forms"</b>	those forms as prescribed by the Insurance Companies (Accounts and Statements) Regulations 1996 as at 19 October 2001. In the event of any amendment or replacement of any of such forms after such date the Appointed Actuary and the RNPFN Fund Supervisory Board may agree appropriate alternative wording for the purposes of this definition. Failing such agreement within 30 days following a request by either of them to the other to reach such agreement, the matter may be referred by either of them for final determination by the Umpire;
<b>"Residual Assets"</b>	<p>(A) any property of RNPFN (including any right, benefit or power of RNPFN under any Transferred Policy), the transfer of which to LVLC pursuant to this Scheme requires, at the Effective Date, either:</p> <ol style="list-style-type: none"> <li>(1) the consent of any person (other than RNPFN, LVLC or the Court); or</li> <li>(2) 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</li> </ol>

such transfer being proposed or taking effect,

but to the extent only of that part of the interest of RNPFN in such property, the transfer of which requires such consent and/or waiver and, for the avoidance of doubt, excepting rights, benefits and powers under the Excluded Policies;

- (B) any other interest of RNPFN in any property or any agreement relating to any property which RNPFN and LVLC shall agree prior to the Effective Date is more conveniently to be transferred pursuant to this Scheme in conjunction with any property referred to in paragraph (A) of this definition;
- (C) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, earned or received from time to time after the Effective Date in respect of any such property referred to in paragraph (A) or (B) of this definition; and
- (D) the RMM Amount;

**"Residual Liability"**

any liability whatsoever of RNPFN (other than under an Excluded Policy):

- (A) that 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) the transfer of which to LVLC pursuant to this Scheme requires, as at the Effective Date, the consent of any person (other than RNPFN, LVLC or the Court);

**"RMM Amount"**

such amount of assets as the RNPFN Appointed Actuary shall determine, in the event that immediately prior to the Effective Date it is known that there will be particular Excluded Policies, as sufficient to meet RNPFN's margin of solvency required in accordance with the Act in relation to such Excluded Policies;

**"RNPFN "**

The Royal National Pension Fund for Nurses, a company limited by guarantee and without a share capital and incorporated in England and Wales with registered number 25928;

<b>"RNPFN Fund"</b>	the separate fund having that name to be established in accordance with paragraph 10;
<b>"RNPFN Fund Supervisory Board"</b>	the committee of the LVLC Board to be established and maintained pursuant to Part G;
<b>"RPI"</b>	the Retail Prices Index maintained by the Central Statistical Office (or such other substantially equivalent index as the Appointed Actuary with the approval of the RNPFN Fund Supervisory Board (such approval not to be unreasonably withheld or delayed) may substitute therefor);
<b>"this Scheme"</b>	this Scheme in its original form or with or subject to any modification, addition or condition which may be approved or imposed in accordance with paragraph 39;
<b>"Shareholder"</b>	LVFS or such other person or persons who are from time to time the legal and/or beneficial owners of the share capital of LVLC;
<b>"Shareholders' Fund"</b>	the property and liabilities of LVLC other than those attributable to or represented by the Long Term Fund;
<b>"Subsequent Transfer Date"</b>	<p>in relation to any Residual Asset or Residual Liability, the date (and each date) after the Effective Date on which such Residual Asset or Residual Liability is to be transferred to LVLC, namely:</p> <p>(A) in respect of any Residual Asset falling within paragraph (A) of the definition thereof, and of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (B) 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 LVLC upon the terms of this Scheme is:</p> <ol style="list-style-type: none"> <li>(1) obtained; or</li> <li>(2) no longer required; or</li> <li>(3) dispensed with by Order of the Court;</li> </ol> <p>(B) in respect of any Residual Asset falling within paragraph (B) of the definition thereof and of any Residual Liability which is attributable to or connected with that Residual Asset, the Subsequent Transfer Date applicable to the property in conjunction with which it was</p>

agreed to be a Residual Asset;

- (C) in the case of any Residual Asset falling within paragraph (C) of the definition thereof, the date on which such Residual Asset is received or earned by RNPFN; and
- (D) in respect of any Residual Asset falling within paragraph (D) of the definition thereof, the date on which in the opinion of the RNPFN Appointed Actuary the Excluded Policy in relation to which the relevant part of the RMM Amount was retained in RNPFN and treated as a Residual Asset ceases to be underwritten by RNPFN (whether because such Excluded Policy becomes a liability of LVLC or matures or becomes a claim, or for any other reason whatsoever);

**"taxation"**

all forms of tax, duty, rate, levy, charge or other imposition or withholding whenever and by whatever authority imposed and whether of the United Kingdom or elsewhere, including (without limitation) income tax, corporation tax, advance corporation tax, capital gains tax, inheritance tax, value added tax, customs duties, excise duties, stamp duty, stamp duty reserve tax, national insurance and other similar contributions, and any other taxes, duties, rates, levies, charges, imposts or withholdings corresponding to, similar to, replaced by or replacing any of them, together with any interest, penalty or fine in connection with any taxation;

**"Transfer Agreement"**

the agreement dated 6 July 2001 between RNPFN and LVFS providing, inter alia, for the carrying out of this Scheme;

**"Transferred Assets"**

all property of RNPFN whatsoever and wheresoever situated as at the Effective Date including without prejudice to the generality of the foregoing:

- (A) the rights, benefits and powers of RNPFN under or by virtue of the Transferred Policies; and
- (B) all rights and claims (present or future, actual or contingent) against any third party in relation to the Transferred Business or arising as a result of RNPFN having carried on the Transferred Business,

but excluding the Residual Assets and rights, benefits

and powers under the Excluded Policies;

<b>"Transferred Business"</b>	the whole of the Long Term Business of RNPFN carried on in the United Kingdom at the Effective Date, including all activities carried on in connection with or for the purposes of such business and any proposals for insurance not yet accepted as at the Effective Date, save to the extent that such business relates to Excluded Policies;
<b>"Transferred Liabilities"</b>	all liabilities whatsoever of RNPFN (other than the Residual Liabilities and liabilities under or relating to the Excluded Policies) and in particular (but without prejudice to the generality of the foregoing) all liabilities under the Transferred Policies and all liability to taxation attributable to the Transferred Business or to the transfer thereof, whensoever incurred;
<b>"Transferred Policies"</b>	every Policy written by RNPFN under which any liability remains unsatisfied or outstanding at the Effective Date and comprised in the Transferred Business, including: <ul style="list-style-type: none"> <li data-bbox="676 1041 1374 1187">(A) Policies written by RNPFN which have lapsed on or before the Effective Date and which are reinstated by LVLC after the Effective Date; and</li> <li data-bbox="676 1216 1385 1400">(B) all proposals for insurance received by or on behalf of RNPFN before the Effective Date which have not become Policies in force by the Effective Date but which subsequently become Policies,</li> </ul> but excluding the Excluded Policies;
<b>"Treaty"</b>	the Treaty of Rome of 25 March 1957 establishing the European Community, as amended by the Single European Act 1986 and the treaty on European Union signed at Maastricht on 1 February 1992, and as further amended from time to time;
<b>"Umpire"</b>	the actuary or firm of consulting actuaries appointed pursuant to Schedule 1;
<b>"VAT"</b>	value added tax;
<b>"With Profits Amount"</b>	in relation to the RNPFN Fund: <ul style="list-style-type: none"> <li data-bbox="676 1937 1391 2042">(A) the aggregate of the long term business admissible and inadmissible assets less the aggregate of the mathematical reserves (including any additional</li> </ul>

reserves) in respect of non-profit business, unit liabilities and other insurance and non-insurance liabilities, being those items which would be classified under the following lines or columns of the following Regulatory Forms if the RNPFN Fund were a separate long term fund: the long term business admissible assets (Regulatory Form 9, line 21 plus Regulatory Form 13, line 92); less insurance and non-insurance liabilities (Regulatory Form 9, line 24); less property linked liabilities (Regulatory Form 53, column 15); less index linked liabilities (Regulatory Form 54, column 15); less non-profit liabilities (Regulatory Form 51, column 12: Non Profit Total); less additional reserves in respect of non-profit business (Regulatory Form 51, column 12: additional reserves in respect of non-profit business) (where each reference to liabilities in this paragraph (A) shall be a reference to such liabilities net of any reinsurance ceded); less

(B) the aggregate of the Contingent Loan Amount and any accrued but unpaid interest on any Contingent Loan Advances;

- "With Profits Policy"** a Policy which confers on the holder a right to share in surplus; and
- "With Profits Units"** notional units whose value or number vary by reference to bonuses declared, or surpluses otherwise distributed.

## 1.2 In this Scheme:

- (1) **"property"** includes (without limitation) property, assets, rights (including, without limitation, contingent rights as to the repayment of tax) and powers of every description (whether present or future, actual or contingent) and includes property held on trust and securities, benefits, powers of any description and any interest whatsoever in any of the foregoing;
- (2) **"liabilities"** includes (without limitation) duties and obligations of every description (whether present or future, actual or contingent);
- (3) **"transfer"** includes (as the context may require) **"assign"**, **"assignment"** or **"assignment"**, **"dispose"** or **"disposal"** or **"convey"** or **"conveyance"**;
- (4) 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;
- (5) any reference in this Scheme 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;

- (6) expressions used in this Scheme which have meanings under the Act shall bear those meanings;
- (7) the expressions "**holding company**", "**subsidiary**" and "**wholly-owned subsidiary**" shall have the same meanings as in the Companies Act 1985;
- (8) any reference to this Scheme shall include the Schedules to it and references to paragraphs, Parts or Schedules are to paragraphs or Parts of or Schedules to this Scheme;
- (9) headings are inserted for convenience only and shall not affect the construction of this Scheme;
- (10) any reference to a person shall include a reference to a body corporate, a partnership, an unincorporated association or to a person's executors or administrators, and for the avoidance of doubt, shall include a trustee;
- (11) 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;
- (12) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (13) any reference to a document in the form agreed is to the form of the relevant document agreed between the relevant persons in accordance with this Scheme and initialled by or on behalf of each of them for the purpose of identification prior to the date on which the Court sanctions this Scheme;
- (14) the expression "variation" shall include any variation, supplement, deletion, replacement or termination, however effected; and
- (15) any reference to an amount shall be exclusive of any applicable value added or other tax.

## **PART B –INTRODUCTION**

### **2. INTRODUCTION**

- 2.1 RNPFN is a company limited by guarantee without a share capital incorporated in England and Wales with registered number 25928. The registered office of RNPFN is situated at Burdett House, 15 Buckingham Street, London, WC2N 6ED.
- 2.2 LVLC is a company incorporated in England and Wales with registered number 597740. The registered office of LVLC is situated at County Gates, Bournemouth, Dorset BH1 2NF.
- 2.3 Each of RNPFN and LVLC is an insurance company (as defined in Section 96(1) of the Act) to which Part II of the Act applies and each is authorised under Part I of the Act to carry on Long Term Business in Classes I-IV, VI and VII in the United Kingdom.
- 2.4 It is proposed that the whole of the Long Term Business carried on by RNPFN, all of which is carried on in the United Kingdom, other than the Excluded Policies, shall, in accordance with this Scheme, be transferred to LVLC (and that an Order be made accordingly for the sanction of this Scheme under paragraph 1(3) of Schedule 2C to the Act and/or Section 111 (1) of FSMA) and that by the Order by which this Scheme is sanctioned, provision be made, as hereinafter appearing, for, inter alia, the transfer to LVLC of the whole or any part of the undertaking and of the property or liabilities of RNPFN, pursuant to paragraph 5 of Schedule 2C to the Act and/or Section 112(1) of the FSMA.
- 2.5 Each of LVLC and LVFS has agreed to appear by Counsel on the hearing of the Petition to sanction this Scheme and to undertake to be bound thereby and to execute all such documents and 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**

- 3.1 On and with effect from the Effective Date the Transferred Business shall be transferred to and be vested in LVLC in accordance with this Scheme, so that:
- (A) subject to paragraph 8, on and with effect from the Effective Date, the Transferred Assets and all the interest of RNPFN in them shall, by the Order and without any further act or instrument, be transferred to and be vested in LVLC, subject to all Encumbrances (if any) affecting such assets;
  - (B) subject to paragraph 8, on and with effect from each Subsequent Transfer Date, each Residual Asset to which such Subsequent Transfer Date applies and all the interest of RNPFN in it shall, by the Order and without any further act or instrument, be transferred to and be vested in LVLC, subject to all Encumbrances (if any) affecting such asset;
  - (C) on and with effect from the Effective Date, the Transferred Liabilities shall, by the Order and without any further act or instrument, be transferred to and become liabilities of LVLC and shall cease to be liabilities of RNPFN; and
  - (D) 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 LVLC and shall cease to be a liability of RNPFN.
- 3.2 LVLC shall accept without investigation or requisition such title as RNPFN shall have at the Effective Date to the Transferred Assets and, at any Subsequent Transfer Date, to the Residual Asset then transferred.
- 3.3 Subject to the provisions of paragraph 16, LVLC and RNPFN shall take all reasonable steps, and execute such documents as may reasonably be required by either of them at any time, to effect or perfect the transfer to LVLC of any Transferred Asset or Residual Asset pursuant to this Scheme.
- 3.4 The Transferred Assets, Residual Assets, Transferred Liabilities and Residual Liabilities shall be allocated in accordance with Part D.
- 3.5 To the extent that the requirement to meet RNPFN's margin of solvency in accordance with the Act in relation to Excluded Policies requires assets to be transferred to RNPFN, assets held by the RNPFN Fund and selected by the LVLC Appointed Actuary in consultation with the RNPFN Appointed Actuary with a value (determined in accordance with the relevant requirement) equal to the value of assets required to be transferred to RNPFN, shall from time to time be transferred to RNPFN from the RNPFN Fund and will thereafter be dealt with on the same basis as assets comprised in the RMM Amount.

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

- 4.1 On and with effect from the Effective Date any proceedings which are pending by or against RNPFN in connection with the Transferred Policies, the Transferred Assets or the Transferred Liabilities shall be continued by or against LVLC and LVLC shall be

entitled to all defences, claims, counterclaims and rights of set-off that would have been available to RNPFN in relation to the Transferred Policies, the Transferred Assets and the Transferred Liabilities.

- 4.2 On and with effect from the Subsequent Transfer Date applicable thereto any proceedings which are pending by or against RNPFN in connection with the Residual Assets or the Residual Liabilities shall be continued by or against LVLC and LVLC shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to RNPFN in relation to the Residual Assets and Residual Liabilities.

## **5. RIGHTS AND OBLIGATIONS UNDER TRANSFERRED POLICIES**

- 5.1 On and with effect from the Effective Date LVLC shall become entitled to all the rights, benefits and powers of RNPFN whatsoever subsisting on the Effective Date under or by virtue of the Transferred Policies.
- 5.2 Every person who is a holder of any of the Transferred Policies shall on and with effect from the Effective Date become entitled, in succession to, and to the exclusion of, any rights which he may have had against RNPFN under any of the Transferred Policies, to the same rights against LVLC as were available to him against RNPFN under such Policies and (as regards Transferred Policies under which premiums or other sums attributable or referable thereto continue to be payable) shall on and with effect from the Effective Date account to LVLC for any further or additional premiums or other sums attributable or referable thereto as and when the same become due and payable.
- 5.3 If any person entitled to do so with respect to a Transferred Policy exercises any right or option granted under the terms of that Policy and either:
- (A) the right or option provides for a new, additional or replacement Policy to be issued; or
  - (B) it is appropriate in the opinion of the Appointed Actuary of LVLC in order to comply with that right or option to issue a new Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue by LVLC of a Policy which complies with the terms of such right or option, but (without prejudice to the right of such person to have the right or option satisfied by the issue by LVLC of such a Policy):

- (1) LVLC shall be entitled to procure that LVFS shall offer to such person as an alternative (and, if accepted, in lieu thereof) a Policy which complies with the terms of such right or option provided that the issue of such Policy by LVFS would not, in the opinion of the Appointed Actuary of LVLC, result in a liability, or an increase in the liability, to tax of the holder of such Policy which would not have resulted had such Policy been issued by LVLC or otherwise fail to satisfy the reasonable expectations of the holder of such Policy; and
- (2) if LVLC or LVFS (as the case may be) is not at the time of the exercise of such right or option writing Policies complying exactly with the Policy to which the right or option refers, LVLC shall be entitled to

offer or (subject to the proviso set out in sub-paragraph (1) above) to procure that LVFS shall offer to such person as an alternative (and, if accepted, in lieu thereof) the Policy commonly offered by LVLC or LVFS (as the case may be) at that time, which LVLC or LVFS (as the case may be) considers to be the nearest equivalent Policy, in accordance with the terms and conditions applicable to Policies of LVLC or LVFS (as the case may be) at that time.

- 5.4 All references in any Transferred Policy to RNPFN, its Council of Management, its Appointed Actuary or any other officers or employees of RNPFN shall from and after the Effective Date be read as references to LVLC, its board of directors, Appointed Actuary or any other officers or employees of LVLC or, where appropriate, agents of LVLC to which the administration or investment management of the relevant part of the business carried on by LVLC has been delegated. In particular, but without limitation, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by RNPFN, its Council of Management, Appointed Actuary or any other officers, employees or agents of RNPFN in relation to any of the Transferred Policies shall, from and after the Effective Date, be exercisable or required to be performed by LVLC, its board of directors, its Appointed Actuary or any other officers, employees or such agents.

## **6. EXCLUDED POLICIES**

- 6.1 The Excluded Policies shall not be transferred to LVLC by this Scheme and, subject to paragraph 6.6, the liabilities under the Excluded Policies shall remain liabilities of RNPFN but shall at all times after the Effective Date be reinsured in their entirety into LVLC on terms consistent with those described in paragraph 6.2.
- 6.2 On or prior to the Effective Date RNPFN and LVLC shall enter into the Excluded Policies Reassurance Agreement pursuant to which, on and with effect from the Effective Date, all the liabilities of RNPFN attributable to the Excluded Policies and all other amounts paid or payable by RNPFN in respect of the Excluded Policies (including amounts paid or payable in connection with the surrender of any Excluded Policy) shall be reinsured in their entirety into LVLC.
- 6.3 The premiums payable under the Excluded Policies Reassurance Agreement shall comprise an amount equal to:
- (A) (1) in the case of those Excluded Policies which are not With Profits Policies, the aggregate amount of the mathematical reserves relating to the Excluded Policies reassured as at the Effective Date; and
- (2) in the case of those Excluded Policies which are With Profits Policies, the aggregate amount of the Asset Shares relating to the Excluded Policies reassured as at the Effective Date,
- which shall be deemed to have been satisfied by the transfer to LVLC of the appropriate proportion of the Transferred Assets; and
- (B) all subsequent premium payments and all other amounts received by RNPFN in respect of such Excluded Policies at any time after the Effective Date.

- 6.4 The liability of LVLC in respect of the Excluded Policies Reassurance Agreement, including the obligation to make payments in respect of claims made, annuities in payment and bonuses declared shall be calculated so as to ensure that benefits are provided to holders of Excluded Policies which are the same as the benefits which would have accrued to such policyholders if such Excluded Policies had been Transferred Policies.
- 6.5 If any person entitled to do so with respect to an Excluded Policy exercises any right or option granted under the terms of that Policy and either:
- (A) the right or option provides for a new, additional or replacement Policy to be issued; or
  - (B) it is appropriate in the opinion of the Appointed Actuary of RNPFN in order to comply with that right or option to issue a new Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue by RNPFN of a Policy which complies with the terms of such right or option but (without prejudice to the right of such person to have the right or option satisfied by the issue by RNPFN of such a Policy):

- (1) LVLC shall be entitled to offer, or to procure that LVFS shall offer, to such person as an alternative (and, if accepted, in lieu thereof) a Policy which complies with the terms of such right or option provided that the issue of such Policy by LVLC or LVFS (as the case may be) would not, in the opinion of the Appointed Actuary of LVLC, result in a liability, or an increase in the liability, to tax of the holder of such Policy which would not have resulted had such Policy been issued by RNPFN or otherwise fail to satisfy the reasonable expectations of the holder of such Policy; and
  - (2) if LVLC or LVFS (as the case may be) is not at the time of the exercise of such right or option writing Policies complying exactly with the Policy to which the right or option refers, then (subject to the proviso set out in sub-paragraph (1) above), LVLC shall be entitled to offer, or to procure that LVFS shall offer, to such person as an alternative (and, if accepted, in lieu thereof) the Policy commonly offered by LVLC or LVFS (as the case may be) at that time, which LVLC or LVFS (as the case may be) considers to be the nearest equivalent Policy, in accordance with the terms and conditions applicable to Policies of LVLC or LVFS (as the case may be) at that time.
- 6.6 If any Excluded Policy is novated to LVLC, the property and liabilities relating to such Policy shall, to the extent not previously transferred, be transferred to LVLC and such Policy shall thereafter be dealt with by LVLC under the provisions of this Scheme in all respects as if such Excluded Policy were a Transferred Policy.

## **7. PREMIUMS AND OTHER PAYMENTS**

- 7.1 All premiums attributable or referable to the Transferred Policies or the Excluded Policies shall on and after the Effective Date be payable to LVLC and shall be

receivable and received by LVLC and for the purpose of Part E shall be credited to the account of the RNPFN Fund.

- 7.2 Any mandate or other instruction in force on the Effective Date (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a banker or other intermediary of premiums payable to RNPFN under or in respect of any of the Transferred Policies or the Excluded Policies shall thereafter take effect as if it had provided for and authorised such payment to LVLC.
- 7.3 Any mandate or other instruction in force on the Effective Date as to the manner of payment of any sum payable by RNPFN under any of the Transferred Policies or the Excluded Policies shall, on and from the Effective Date, continue in force as an effective authority to LVLC.

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

- 8.1 If:
- (A) any property of RNPFN is not, or is not capable of being, transferred to and vested in LVLC by the Order on the Effective Date by reason of:
    - (1) such property being a Residual Asset; or
    - (2) such property being outside the jurisdiction of the Court; or
    - (3) any other reason; or
  - (B) any Residual Asset is not, or is not capable of being, transferred to and vested in LVLC by the Order on the Subsequent Transfer Date applicable thereto; or
  - (C) the transfer of any property of RNPFN attributable to the Transferred Business outside the jurisdiction of the Court is not recognised by the laws of the jurisdiction in which such property is situated; or
  - (D) in any circumstances LVLC shall decide before the Effective Date (or, in the case of any Residual Asset, before the Subsequent Transfer Date applicable thereto) that it is expedient not to effect a transfer of any property of RNPFN,

RNPFN shall, from the Effective Date (but save to the extent that giving effect to such a trust would require a consent or waiver referred to in paragraph (A) of the definition of Residual Asset, which has not been obtained) hold any property referred to in paragraphs (A) to (D) of this paragraph 8.1 as trustee for LVLC.

- 8.2 RNPFN shall be subject to LVLC's directions in respect of any property referred to in paragraphs (A) to (D) of paragraph 8.1 from the Effective Date until the relevant property is transferred to or otherwise vested in LVLC or is disposed of (whereupon RNPFN shall account to LVLC for the proceeds of sale thereof), and LVLC shall have authority to act as the attorney of RNPFN in respect of such property for all such purposes.
- 8.3 In the event of any payment being made to, property being received by or right being conferred upon RNPFN after the Effective Date in respect of the Transferred Business, any Transferred Asset or any Residual Asset, RNPFN shall, as soon as is

reasonably practicable after its receipt, pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to, or in accordance with the directions of, LVLC and LVLC shall indemnify RNPFN on demand against any costs incurred in making any such payment or transfer.

- 8.4 The RMM Amount (including assets comprised therein pursuant to paragraph 3.5 hereof) shall only be subject to the provisions of this paragraph 8 insofar as they shall be consistent with RNPFN continuing to satisfy the requirements of the Act and the Regulations in relation to the maintenance of the required margin of solvency.

## **9. INDEMNITIES IN FAVOUR OF RNPFN**

On and from the Effective Date LVLC shall discharge on RNPFN's behalf or, failing that, shall indemnify RNPFN against:

- (A) charges, costs and claims arising in respect of all Transferred Liabilities and Residual Liabilities which are not, or are not capable of being, transferred by this Scheme or by a vesting order pursuant to Schedule 2C to the Act or Section 112(1) of the FSMA (whether made before, on or after the Effective Date) (other than liabilities which are the subject of paragraph (C) below) until the relevant liability is transferred to or becomes a liability of LVLC;
- (B) save as otherwise provided in this Scheme, any other liability of RNPFN whether arising before or after the Effective Date (other than liabilities which are the subject of paragraph (C) below); and
- (C) any amount paid by RNPFN in respect of any liabilities of RNPFN that are, whether wholly or in part, the subject of a policy of indemnity insurance or a claim or right of recovery against a third party, but only to the extent that RNPFN, 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).

## **PART D - FUND STRUCTURE OF LVLC**

### **10. ESTABLISHMENT OF RNPFN FUND**

On and with effect from the Effective Date LVLC shall establish the RNPFN Fund as a separate sub-fund within the Long Term Fund.

### **11. PAYMENTS BY LVFS AND LVLC**

Immediately following the Effective Date:

- (A) LVFS shall pay the sum of £47,275,200, together with an amount equal to interest on the sum of £48,240,000 at the base rate from time to time prescribed by Barclays Bank Plc, calculated on a daily basis from 1 January 2002 until payment in full (both dates inclusive), in cash to the Charitable Trust; and
- (B) LVLC shall transfer the sum of £580,000 in cash from the Shareholders' Fund to the RNPFN Fund.

### **12. PURPOSE OF ALLOCATIONS**

Any allocation of property or attribution of liabilities, and any reallocation or reattribution of the same, which is made under the terms of this Scheme for the purpose of the establishment or maintenance of the RNPFN Fund or the Other Funds is for the purpose of establishing policyholder entitlements from time to time and shall not be taken to limit the availability of all the property from time to time of LVLC to meet the liabilities which it is obliged by law to meet.

### **13. ALLOCATION OF POLICIES**

On and with effect from the Effective Date, all the Transferred Policies shall be allocated to the RNPFN Fund.

### **14. ALLOCATION OF ASSETS**

14.1 On and with effect from the Effective Date the following shall be allocated to the RNPFN Fund:

- (A) all Transferred Assets (including, for the avoidance of doubt, RNPFN's rights under the Transfer Agreement) apart from those of the Transferred Assets allocated to the Shareholders' Fund pursuant to paragraph 14.2;
- (B) all rights and benefits arising under the Excluded Policies Reassurance Agreement; and
- (C) the beneficial interest in all property held on trust pursuant to paragraph 8.1, and the right to receive any payment, property or right pursuant to paragraph 8.3, to the extent that, but for falling within the provisions of paragraph 8.1, such property (or the property to which such payment, property or right relates) would have fallen within the provisions of this paragraph 14.1.

14.2 On and with effect from the Effective Date the following shall be allocated to the Shareholders' Fund:

- (A) all Transferred Assets which comprise rights and benefits arising in respect of the Intellectual Property Rights; and
- (B) all Transferred Assets which comprise rights and benefits arising in respect of the Infrastructure; and
- (C) the beneficial interest in all property held on trust pursuant to paragraph 8.1 and the right to receive any payment, property or right pursuant to paragraph 8.3, to the extent that such property (or the property to which such payment, property or right relates) relates to, or arises in respect of, the Intellectual Property Rights or the Infrastructure.

14.3 On and with effect from the applicable Subsequent Transfer Date each Residual Asset shall be allocated to the fund to which it would have been allocated in accordance with the provisions of paragraphs 14.1 and 14.2 had it been a Transferred Asset.

## **15. ALLOCATION OF LIABILITIES**

15.1 On and with effect from the Effective Date the following shall be allocated to the RNPFN Fund:

- (A) all Transferred Liabilities (including for the avoidance of doubt RNPFN's liabilities under the Transfer Agreement);
- (B) all liabilities attributable to the Excluded Policies Reassurance Agreement;
- (C) the liability to indemnify RNPFN pursuant to paragraph 8.3 to the extent that the payment or property to which such indemnity relates is allocated by paragraph 14.1 to the RNPFN Fund; and
- (D) the liability to discharge liabilities on RNPFN's behalf, or failing that to indemnify RNPFN, pursuant to paragraph 9.

15.2 On and with effect from the applicable Subsequent Transfer Date each Residual Liability shall be allocated to the RNPFN Fund.

## **16. COSTS AND EXPENSES**

16.1 RNPFN and LVLC shall each bear one half of the costs and expenses charged by the Independent Actuary in relation to his report on the terms of this Scheme required under paragraph 2(1) of Schedule 2C to the Act.

16.2 Subject to paragraphs 16.1, 16.4 and the provisions of the Charity Deed, each of RNPFN and the Liverpool Victoria Parties shall bear the costs and expenses respectively incurred by them before the Effective Date in relation to the preparation and carrying into effect of this Scheme.

16.3 If any costs or expenses referred to in paragraphs 16.1 or 16.2 are incurred before the Effective Date but are unpaid as at the Effective Date:

- (A) insofar as they are incurred by RNPFN or are required by paragraph 16.1 or 16.2 to be borne by RNPFN they shall be paid when due by LVLC and borne by the RNPFN Fund; and



(B) insofar as they are incurred by the Liverpool Victoria Parties or are required by paragraph 16.1 or 16.2 to be borne by the Liverpool Victoria Parties they shall be paid when due by LVLC from the Shareholders' Fund.

16.4 Subject to paragraph 21.3, any costs and expenses which are necessarily incurred by LVLC in carrying into effect the transfers provided for by this Scheme shall be borne by the RNPFN Fund.

## **PART E - OPERATION OF THE RNPFN FUND**

### **17. MAINTENANCE OF THE RNPFN FUND**

Subject to paragraph 28, at all times after the Effective Date the RNPFN Fund and the Other Long Term Funds shall be separately maintained and LVLC shall procure that separate accounting records for the RNPFN Fund and the Other Long Term Funds shall at all times be maintained which shall be sufficient to enable the separate identification of the property and liabilities respectively allocated to the RNPFN Fund and the Other Long Term Funds.

### **18. NEW BUSINESS**

The only new Long Term Business undertaken by LVLC after the Effective Date which shall be allocated to the RNPFN Fund shall be:

- (A) Policies written by LVLC pursuant to paragraph 5.3 or paragraph 6.5;
- (B) premiums (including recurrent single premiums, other additional premiums and increments) receivable in respect of any Policy allocated to the RNPFN Fund that:
  - (1) are required to be paid under the terms of such Policy; or
  - (2) would be allocated to such Policy or (in the case of increments to free standing additional voluntary contribution contracts) would give rise to the issue of a further Policy, in accordance with the terms of such Policy or in accordance with the practices or procedures of RNPFN applicable to such Policy prior to the Effective Date;
- (C) premiums (including recurrent single premiums, other additional premiums and increments) receivable in respect of Policies coming into force as a result of any option or right contained in any Policy allocated to the RNPFN Fund that:
  - (1) are required to be paid under the terms of such Policy; or
  - (2) would be allocated to such Policy in accordance with the terms of such Policy or in accordance with the practices or procedures of RNPFN applicable to such Policy prior to the Effective Date;
- (D) Excluded Policies which are transferred or novated to LVLC and would have been allocated to the RNPFN Fund if they had been Transferred Policies; and
- (E) such other Policies, premiums or increments derived from or otherwise related to Transferred Policies or Excluded Policies as the LVLC Appointed Actuary and the RNPFN Fund Supervisory Board may agree on the grounds that it would be uneconomic for them to be written elsewhere than in the RNPFN Fund.

## **19. PRINCIPLES OF FINANCIAL MANAGEMENT**

- 19.1 LVLC shall manage the affairs of the RNPFN Fund in accordance with the Principles of Financial Management.
- 19.2 LVLC shall use reasonable endeavours to procure that, in the determination from time to time of how the property allocated to the RNPFN Fund should be invested, the RNPFN Fund is not treated unfairly in comparison with the Other Long Term Funds or any other company in the Group which carries on Long Term Business in the United Kingdom.

## **20. ALLOCATION OF SURPLUS**

Save as expressly provided by this Scheme, LVLC shall procure that the whole of the surplus of the assets over the liabilities of the RNPFN Fund from time to time shall be applied over time in accordance with the Principles of Financial Management solely and exclusively in the provision of benefits to the holders of With Profits Policies allocated to the RNPFN Fund and Excluded Policies which are With Profits Policies.

## **21. TAXATION OF THE RNPFN FUND**

- 21.1 Subject to paragraphs 21.2 to 21.5, the RNPFN Fund shall be debited or charged in respect of any liability to taxation with an amount certified by the LVLC Appointed Actuary, and confirmed by LVLC's auditors, on the basis of tax law and practice prevailing at the time, to be the amount that would have been the amount of the tax liability of a hypothetical mutual life insurance company the sole Long Term Business conducted by which was the business carried on in the RNPFN Fund and if all appropriate allowances and reliefs that would in such circumstances have been available had been claimed or disclaimed and given. To the extent that a charge to taxation arises at an earlier or later date than the date on which it would have arisen in RNPFN had this Scheme not taken effect, an amount in respect of that charge shall be debited or charged to the RNPFN Fund at the time at which it would otherwise have arisen.
- 21.2 The hypothetical mutual life insurance company described in paragraph 21.1 is to have the benefit of all reliefs and other credits in respect of taxation that are available to carry forward and are transferable to LVLC from the RNPFN business from periods commencing before the Effective Date.
- 21.3 The RNPFN Fund is not to be charged with any taxation which arises as a result of any act or omission occurring after the Effective Date where such act or omission was not done or made in the ordinary course of the business of the RNPFN Fund (and for the avoidance of doubt the ordinary course of the business of the RNPFN Fund does not include the coming into force of, the carrying into effect of, and acts done in connection with, the Scheme, and the making or repayment of, or the payment of interest on, any capital support to which Part F relates).
- 21.4 The RNPFN Fund is not to be unreasonably disadvantaged by any compromise settlement with the taxation authorities that also extends to the affairs of other parts of LVLC, or other members of the Group.
- 21.5 If there is a material change in the basis on which life assurance companies are subject to taxation in the United Kingdom, paragraph 21.1 shall be amended to the

extent that the LVLC Appointed Actuary, having consulted with LVLC's auditors and with the RNPFN Fund Supervisory Board, considers necessary or desirable to ensure that the effect of that paragraph continues to be that intended as at the Effective Date.

## **22. ALLOCATION OF EXPENSES AND CHARGES**

- 22.1 Subject to paragraph 22.2, there will be charged to and borne by the RNPFN Fund only such part of the total costs, liabilities and expenses properly referable to the business in the RNPFN Fund as the LVLC Appointed Actuary (after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board) considers fair and equitable having regard to policyholders' reasonable expectations (and no other costs, liabilities and expenses incurred by LVLC shall be borne by the RNPFN Fund save as specified in this Scheme).
- 22.2 There shall be allocated to the RNPFN Fund, in respect of the acquisition, set up, maintenance or termination of Transferred Policies, Excluded Policies and new Long Term Business allocated to the RNPFN Fund pursuant to paragraph 18.1 or in respect of investment management only such amounts in respect of expenses and charges as are determined in accordance with Schedule 3.

## **23. LINKED FUNDS**

- 23.1 On and with effect from the Effective Date the property and any associated liabilities comprised in each Linked Fund of RNPFN shall be allocated to and become comprised in a new corresponding Linked Fund established by LVLC within the RNPFN Fund, comprising immediately following the Effective Date the same number and value of units as were comprised within the relevant Linked Fund of RNPFN immediately prior to the Effective Date.
- 23.2 On and with effect from the Effective Date:
- (A) subject always to the provisions of this paragraph 23, in relation to any benefits under Transferred Policies which are linked to a Linked Fund established by LVLC pursuant to paragraph 23.1, LVLC shall become entitled to the same rights and powers and be subject to the same duties and liabilities as applied to RNPFN in relation to the corresponding Linked Fund of RNPFN immediately prior to the Effective Date; and
  - (B) benefits under any Transferred Policy which, immediately prior to the Effective Date, were linked to any one or more Linked Fund(s) of RNPFN shall become linked to the corresponding new Linked Fund(s) of LVLC and LVLC shall as at the Effective Date allocate to each such Transferred Policy the same number and classes of units in the corresponding new Linked Fund(s) of LVLC as the number and classes of units in the relevant Linked Fund(s) of RNPFN which were allocated to the Transferred Policy immediately prior to the Effective Date.
- 23.3 If any property comprised in a Linked Fund of RNPFN falls within the provisions of paragraph 8.1 all interests and rights in relation to such property pursuant to paragraph 14.1(C) or paragraph 14.2(C) shall be allocated to the relevant Linked Fund established by LVLC to which such property would, had it been a Transferred Asset, have been allocated. On and with effect from the relevant Subsequent Transfer Date

each Residual Asset which is comprised in a Linked Fund of RNPFN shall be allocated to the Linked Fund of LVLC to which it would have been allocated pursuant to this paragraph 23 had it been a Transferred Asset.

- 23.4 Subject to the FSMA and the terms of the relevant Policies, LVLC shall be at liberty at any time and from time to time to close existing Linked Funds, to amalgamate any Linked Fund or any part or parts thereof with any other Linked Fund or any part or parts thereof or to divide any Linked Fund into one or more Linked Funds, or to effect any combination of the aforesaid.
- 23.5 LVLC shall use reasonable endeavours to manage the Linked Funds established by it pursuant to paragraph 23.1 so as to ensure that units in such new Linked Funds continue to be priced as if such Linked Funds were open to new business, provided that this does not result in any cost to LVLC (which is not borne by the RNPFN Fund) or any other member of the Group.

#### **24. CREDITS TO THE RNPFN FUND**

On and at all times after the Effective Date there shall be credited to the RNPFN Fund all of the following:

- (A) all property allocated or transferred to the RNPFN Fund in accordance with Part D;
- (B) all amounts paid, and all property or rights transferred, by RNPFN to LVLC pursuant to paragraph 8.3 to the extent that such amounts, property or rights fall within paragraph 14.1(C);
- (C) all premiums received by LVLC in respect of Policies allocated to the RNPFN Fund in accordance with paragraph 13 or 18;
- (D) all amounts received by LVLC in respect of the Excluded Policies Reassurance Agreement;
- (E) all amounts paid to LVLC and properly transferred to LVLC in consideration of or in connection with the transfer or novation to LVLC at any time on or after the Effective Date of any Excluded Policy;
- (F) all amounts received under reinsurance arrangements in respect of liabilities of the RNPFN Fund which are reassured;
- (G) all amounts received under paragraph 27.8 in respect of the Head Office Property;
- (H) all investment gains, earnings, income and profits arising from the property or business allocated to the RNPFN Fund;
- (I) any tax reliefs credited to or deemed to be credited to the RNPFN Fund in accordance with paragraph 21;
- (J) the amount of any Contingent Loan Advance provided pursuant to paragraph 30.2(A);

- (K) such property as is transferred to the RNPFN Fund pursuant to any transfer, exchange or re-allocation of property with the Other Funds pursuant to paragraph 27.3 or 27.4; and
- (L) any other amounts which are required by this Scheme to be credited to or received by the RNPFN Fund or which are determined by the Appointed Actuary in accordance with the principles underlying this Scheme to be properly attributable to or properly received and arising from the property and business of the RNPFN Fund.

## **25. DEBITS TO THE RNPFN FUND**

- 25.1 On and at all times after the Effective Date there shall be debited and charged to the RNPFN Fund all of the following:
- (A) all payments made in respect of those liabilities (including, for the avoidance of doubt, taxation liabilities) which are allocated to the RNPFN Fund in accordance with Part D;
  - (B) any amounts paid to RNPFN by LVLC pursuant to the indemnities contained in paragraph 8.3 to the extent that such payments relate to rights or property which are allocated to the RNPFN Fund;
  - (C) any amounts paid and liabilities incurred by LVLC pursuant to paragraph 9;
  - (D) all amounts payable in respect of Policies which are allocated to the RNPFN Fund in accordance with paragraph 13 or 18 arising by reason of surrender, death, annuity, disability, maturity or other event giving rise to a claim (including, for the avoidance of doubt, amounts payable as a consequence of any guarantee or option in any such Policy);
  - (E) the amount of all payments made by LVLC in respect of the Excluded Policies Reassurance Agreement;
  - (F) all premiums and other amounts paid by LVLC under reinsurance arrangements in respect of liabilities allocated to the RNPFN Fund which are reassured;
  - (G) any costs, liabilities and expenses to be borne by the RNPFN Fund as a consequence of the allocation to it pursuant to paragraph 15.1 of liabilities arising in respect of the Transfer Agreement;
  - (H) all liabilities, costs, expenditure, losses and declines in the value of investments arising from the property or business allocated to the RNPFN Fund;
  - (I) any amounts chargeable to the RNPFN Fund under paragraph 16;
  - (J) all amounts in respect of taxation which are debited or charged to the RNPFN Fund in accordance with paragraph 21;
  - (K) such property as is transferred from the RNPFN Fund pursuant to paragraph 27.3 or 27.4;

- (L) the costs, liabilities and expenses incurred in respect of the acquisition, holding or disposal of any property comprised in the RNPFN Fund, including (without limitation) all commissions, expenses and (subject to paragraph 22 and Schedule 3) investment management or other charges or liabilities properly attributable to the RNPFN Fund or the business allocated to it, as determined by the LVLC Appointed Actuary;
- (M) such charges and expenses as are allocated to the RNPFN Fund in accordance with paragraph 22 and Schedule 3;
- (N) an allocation on a fair and equitable basis of relevant industry levies levied on LVLC, including levies payable pursuant to the Financial Services Compensation Scheme and claims under indemnities given by RNPFN under the Pension Advisers' Support System;
- (O) such remuneration and expenses (including the costs of any external advice) as are paid in respect of the RNPFN Fund Supervisory Board;
- (P) payments of principal and interest in respect of any liabilities of the RNPFN Fund in respect of borrowed monies, including without limitation, any capital support made available pursuant to Part F;
- (Q) an equitable apportionment (having regard to the number of Policies covered) of expenditure in the first 10 years following the Effective Date to the extent required to make the computer systems on which the business allocated to the RNPFN Fund is administered compliant with the requirements of the United Kingdom becoming a Participating Member State and sterling being replaced by the Euro as the lawful currency of the United Kingdom in accordance with the Treaty;
- (R) outstanding remuneration (including any bonus payments) due to employees of RNPFN in respect of any period prior to the Effective Date whether payable on or before the Effective Date or accrued at the Effective Date but payable after the Effective Date;
- (S) any fees of the Umpire that are chargeable to the RNPFN Fund pursuant to paragraph 2(C) of Schedule 1;
- (T) additional contributions (if any) to be made by RNPFN to the RNPFN Staff Superannuation Scheme pursuant to clause 4.10 of the Transfer Agreement;
- (U) amounts (if any) representing the costs of the LVLC Appointed Actuary fairly attributable to work performed at the request of the RNPFN Fund Supervisory Board and which is not required in order to comply with the statutory or professional responsibilities of the LVLC Appointed Actuary or the provisions of this Scheme; and
- (V) any other amounts which are required by this Scheme to be debited or charged to the RNPFN Fund or which are determined by the Appointed Actuary in accordance with the principles underlying this Scheme to be properly attributable to the RNPFN Fund.

25.2 Except as provided for in paragraph 25.1, no sum or amount shall be debited or charged to the RNPFN Fund on or after the Effective Date.

## **26. SERVICE STANDARDS**

LVLC shall use all reasonable endeavours to ensure that:

- (A) the service levels provided to holders of Policies allocated to the RNPFN Fund and Excluded Policies are no less favourable than the level provided in relation to equivalent business to holders of Policies written by any other company in the Group which carries on Long Term Business in the United Kingdom or, if better, the level provided in relation to equivalent business by RNPFN immediately prior to the Effective Date; and
- (B) the same level of skill and diligence is applied to the investment management of the property allocated to the RNPFN Fund and any other assets to which benefits on other Transferred Policies are linked as to the property allocated to the long term business funds of any other company in the Group which carries on Long Term Business in the United Kingdom.

## **27. MISCELLANEOUS PROVISIONS REGARDING THE RNPFN FUND**

27.1 At no time shall there be debited or charged to the RNPFN Fund any amount, cost or liability which is at any time incurred in connection with the provision of any finance or financial assistance provided or raised for the purposes of funding or refinancing any costs incurred in connection with the making of the payments referred to in paragraph 11.1.

27.2 Nothing in this Scheme shall at any time prevent LVLC from establishing and maintaining Other Long Term Funds and writing in or reinsuring to any such Other Long Term Funds any new Long Term Business provided the planned volume and terms of such new business do not and are not expected to adversely affect the reasonable benefit expectations of the holders of Policies allocated to the RNPFN Fund and Excluded Policies.

27.3 If there is, for any reason, any delay (for which provision is not expressly made in this Scheme) in the allocation of any receipt, payment or other item to the RNPFN Fund or the Shareholders' Fund in accordance with this Scheme, LVLC, on the advice of the Appointed Actuary and subject to the FSMA, may make such adjustment between such funds as it considers appropriate in accordance with the principles underlying this Scheme to take account of such delay.

27.4 LVLC may not after the Effective Date enter into any transaction (including reinsurance or loan arrangements) between the RNPFN Fund and any Other Fund or any other member of the Group or which otherwise affects the assets, liabilities or Policies allocated to the RNPFN Fund or Excluded Policies on terms which in the opinion of the LVLC Appointed Actuary are less favourable to the RNPFN Fund than arm's length commercial terms or which may adversely affect the reasonable expectations of the holders of Policies allocated to the RNPFN Fund or Excluded Policies.

27.5 LVFS shall procure that there shall at all times be allocated to the Other Long Term Funds assets in excess of the liabilities allocated thereto having an Admissible Value



not less than the applicable Minimum Solvency Margin in relation to the Other Long Term Funds.

- 27.6 The RNPFN Fund shall not at any time after the Effective Date give any financial assistance or support to any Other Fund.
- 27.7 If during the term of the New Investment Management Agreement the majority by value of the assets of LVFS become managed by any person other than LVAM (the "**New Manager**"), LVFS shall procure that the investment management of the RNPFN Fund shall, with effect from the time on which the New Manager begins so to manage LVFS's assets, be undertaken by the New Manager on terms substantially the same as those set out in the New Investment Management Agreement (or on such other terms as the RNPFN Fund Supervisory Board, acting reasonably, shall agree).
- 27.8 Following the Effective Date LVLC shall operate as if a lease of the Head Office Property incorporating the terms set out in the Notional Lease Terms was in existence between two legal persons with the Shareholders' Fund as tenant and the RNPFN Fund as landlord. The RNPFN Fund shall be credited with all sums which it would receive under such a lease and shall be debited with all sums which it would be required to pay under such lease.

## 28. **PROVISIONS FOR CESSATION OF THE RNPFN FUND**

- 28.1 If the value of the assets comprised within the RNPFN Fund at any time as determined by the LVLC Appointed Actuary falls below £250,000,000 then, subject to agreement by and on terms approved by the Insurance Regulator (after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board):
- (A) provided that there is an appropriate with profits fund available for it to be merged into, LVLC may cease to maintain the RNPFN Fund as a separate sub-fund in accordance with this Scheme and may, subject to paragraph 28.2, merge the business in the RNPFN Fund (which will continue to be run on a with profits basis) into an appropriate with profits fund; or
  - (B) LVLC may cease to maintain the RNPFN Fund as a separate sub-fund in accordance with this Scheme such that the assets and liabilities of the RNPFN Fund are transferred to the Other Long Term Funds and future bonuses in relation to With Profits Policies allocated to the RNPFN Fund and With Profits Policies which are Excluded Policies will be guaranteed at levels determined by LVLC's Appointed Actuary, such that the realistic liability (including allowance for the cost of capital in respect of reserving strain and the required minimum solvency margin) in respect of such Policies, ascertained using best estimate assumptions, is equal to the assets allocated to the RNPFN Fund plus expected future surplus within the RNPFN Fund ascertained using best estimate assumptions as to future experience; or
  - (C) with the agreement of the RNPFN Fund Supervisory Board (such agreement not to be unreasonably withheld or delayed) LVLC may cease to maintain the RNPFN Fund as a separate sub-fund on any other basis.
- 28.2 If, in accordance with paragraph 28.1(A), the RNPFN Fund is no longer to be maintained as a separate sub-fund, the LVLC Appointed Actuary shall use current

surplus within the RNPFN Fund and the present value of future surplus expected to arise on non-profit business in the RNPFN Fund, ascertained using best estimate assumptions as to future experience, to increase the Asset Shares of With Profits Policies allocated to the RNPFN Fund and Excluded Policies which are With Profits Policies, on a basis determined by the LVLC Appointed Actuary (after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board), and future payouts will be targeted on such enhanced Asset Shares.

- 28.3 If, in accordance with paragraphs 28.1(A) or (B), the RNPFN Fund is no longer to be maintained as a separate sub-fund, the role of the RNPFN Fund Supervisory Board will cease.
- 28.4 If the value of the assets comprised in the RNPFN Fund is at any time determined by the LVLC Appointed Actuary (after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board) to have fallen in the aggregate below £50,000,000 the RNPFN Fund shall cease thereafter to be maintained as a separate sub-fund and the provisions of paragraphs 28.1, 28.2 and 28.3 inclusive shall apply *mutatis mutandis*.

## **29. FURTHER TRANSFER**

Subject to agreement by and on terms approved by the Insurance Regulator after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board, LVLC shall, unless the provisions of paragraph 28.1 or paragraph 28.4 apply, be entitled to petition the Court pursuant to Part VII of the FSMA for the transfer to LVFS of the Long Term Business then allocated to the RNPFN Fund at any time, provided that the protection afforded to holders of Policies allocated to the RNPFN Fund, whether pursuant to this Scheme or otherwise, is not reduced overall by such transfer.

## PART F – CAPITAL SUPPORT

### 30. PROVISION OF CAPITAL SUPPORT

30.1 A Deficit shall exist at any time when, and in the amount by which, in the opinion of the Appointed Actuary:

- (A) the value of the property comprised in the RNPFN Fund or held in trust for LVLC and the beneficial ownership in respect of which is allocated to the RNPFN Fund pursuant to paragraphs 8 and 14.1, together with the amount of any implicit item under Regulation 24 of the Regulations or under Rule 2.10(5) of IPRU(INS) permitted to be included in a valuation of LVLC by virtue of an order made under Section 68 of the Act or Section 148 of FSMA on account of profits made by RNPFN and/or the RNPFN Fund and in fact treated by LVLC as allocated to the RNPFN Fund;

falls short of:

- (B) the aggregate value of the mathematical reserves (including the resilience reserves) and the Minimum Solvency Margin attributable to Policies allocated to the RNPFN Fund and a provision for all other insurance and non-insurance liabilities allocated to the RNPFN Fund;

where the value of the property, mathematical reserves and provisions for all other insurance and non-insurance liabilities are calculated by LVLC in a manner consistent with the most recent valuation pursuant to the Act or the FSMA (as applicable) of LVLC (or if no such valuation of LVLC which includes the RNPFN Fund has yet been published, of RNPFN) acting on the advice of the LVLC Appointed Actuary after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board.

30.2 If a Deficit arises at any time:

- (A) the Shareholder will procure that a Contingent Loan will be made to LVLC (for the account of the RNPFN Fund) in an amount (the "**Contingent Loan Advance**") determined pursuant to paragraph 31.7;
- (B) subject to the terms of such Contingent Loan, interest on the Contingent Loan Advance will be calculated and paid pursuant to paragraph 33; and
- (C) subject to the terms of such Contingent Loan, such Contingent Loan Advance, together with all amounts of interest accrued thereon pursuant to paragraph 33, will be repaid as soon as practicable if and to the extent that LVLC (acting on the advice of the LVLC Appointed Actuary after consultation with, and having had regard to, the views of the RNPFN Fund Supervisory Board) determines that a Deficit would not thereby arise. The amount of any Contingent Loan Advance which is repaid will be available to be redrawn on the terms contained in this Part F.

30.3 No variation of the terms of any Contingent Loan shall be entered into without the prior approval of the RNPFN Fund Supervisory Board (such approval not to be unreasonably withheld or delayed).

### **31. TERMS USED IN THIS PART F**

- 31.1 The Available Capital Support at any time shall be the Maximum Aggregate Capital Support at that time, less the Contingent Loan Amount at that time.
- 31.2 The Capital Support Percentage at any time shall be determined as follows:
- (A) subject to any reduction pursuant to sub-paragraph (B) below, the Capital Support Percentage shall be the percentage agreed by RNPFN and LVLC as the percentage that £100 million bears to the With Profits Amount as at the Effective Date; and
  - (B) the Capital Support Percentage shall be reduced at any time if, and to the extent that, the RNPFN Fund Supervisory Board (after consultation with, and having had regard to the views of, the LVLC Appointed Actuary) resolves that it would be in the interests of the holders of With Profits Policies allocated to the RNPFN Fund and With Profits Policies which are Excluded Policies to reduce the Maximum Aggregate Capital Support.
- 31.3 The Maximum Aggregate Capital Support at any time shall be the lesser of:
- (A) £100 million; and
  - (B) subject to paragraph 31.4, an amount equal to the Capital Support Percentage (at that time) of the With Profits Amount (as at the most recent Calculation Date).
- 31.4 For the avoidance of doubt, if the Capital Support Percentage and in consequence the amount defined in paragraph 31.3(B) are at any time reduced pursuant to paragraph 31.2(B), they cannot subsequently be increased except by agreement in writing of LVLC following a written request by the RNPFN Fund Supervisory Board.
- 31.5 The LVLC Appointed Actuary shall review the appropriate level of the Capital Support Percentage and shall consult thereon with the RNPFN Fund Supervisory Board at least annually.
- 31.6 The Contingent Loan Amount at any time shall be:
- (A) the aggregate of all Contingent Loan Advances made prior to that time, as reduced (if applicable) pursuant to paragraph 33.3; less
  - (B) the aggregate of all repayments of the principal of Contingent Loan Advances pursuant to paragraph 30.2(C).
- 31.7 The amount of any Contingent Loan Advance shall be the lesser of:
- (A) the amount of the Deficit (if any) at the time at which a Contingent Loan Advance is to be made; and
  - (B) the Available Capital Support at that time,
- provided that the amount of any Contingent Loan Advance may be reduced pursuant to paragraph 33.3.

- 31.8 If LVLC and the RNPFN Fund Supervisory Board do not agree the calculation of any percentage or amount referred to in this paragraph 31 within 30 days of the date as at which (or the end of the period for which) it requires to be calculated, the calculation may be referred by either of them for final determination by the Umpire.
- 31.9 LVLC shall ensure that each annual return made to the Insurance Regulator by LVLC in accordance with Section 22 of the Act or Rule 9.6 of IPRU(INS) after the Effective Date contains details of the Maximum Aggregate Capital Support and the Available Capital Support throughout the period to which such return relates.

### **32. SUPPORT CHARGE**

- 32.1 An amount determined in accordance with paragraph 32.2 shall be calculated by LVLC as at each Calculation Date in respect of the period since the previous Calculation Date (or since the Effective Date if such Calculation Date is the first since the Effective Date).
- 32.2 The amount to be calculated pursuant to paragraph 32.1 shall be 1 per cent. per annum (determined on a daily basis and on the basis of the actual number of days elapsed) of the Available Capital Support.
- 32.3 Subject to paragraph 32.4, the amount calculated pursuant to paragraph 32.1, together with any Outstanding Support Charge determined pursuant to paragraph 32.5 as at the previous Calculation Date, shall be paid by LVLC from the RNPFN Fund to the Shareholder or as it may direct. Such payment shall be made as soon as practicable and in any event not later than 7 days following agreement or determination of the Available Capital Support pursuant to paragraph 31.8.
- 32.4 No amount shall be payable from the RNPFN Fund pursuant to paragraph 32.3 to the extent that immediately following such payment, a Deficit would exist.
- 32.5 The Outstanding Support Charge as at a Calculation Date shall be determined as the excess (if any) of the amount that would in the absence of the requirement in paragraph 32.4 have been payable from the RNPFN Fund pursuant to paragraph 32.3 as at the relevant Calculation Date over the amount that is actually payable as at that date together with an additional amount equal to interest on such excess calculated from day to day at LIBOR from such relevant Calculation Date to the next Calculation Date.

### **33. CONTINGENT LOAN INTEREST**

- 33.1 Subject to the terms of the Contingent Loans, any Contingent Loan Advance (or, if there is outstanding more than one Contingent Loan Advance, all such Contingent Loan Advances together) shall bear interest, determined as at each Calculation Date (or, if earlier, the date on which the principal of Contingent Loan Advance falls to be repaid pursuant to paragraph 30.2 (C) (a **“Repayment Date”**)), which shall be calculated as the sum of:
- (A) 1.50 per cent. per annum (determined on a daily basis and on the basis of the actual number of days elapsed) of the Contingent Loan Amount; and

- (B) the aggregate amount of all Enhancements determined pursuant to paragraph 33.2 in respect of the period ending on that Calculation Date or, as the case may be, Repayment Date.
- 33.2 The amount of any Enhancement shall be, in respect of each Contingent Loan Advance, an amount determined by the Appointed Actuary as the amount of the relevant Contingent Loan Advance multiplied by the compounded cumulative investment return (which may be negative), expressed as a percentage, in respect of the asset class in which the amount of the Contingent Loan Advance is from time to time invested since the date on which the Contingent Loan Advance was originally made or, if later, the date as at which an Enhancement in respect of such Contingent Loan Advance was most recently determined and certified by the Appointed Actuary, as certified by the Appointed Actuary as at each Calculation Date and in addition on any Repayment Date.
- 33.3 If the amount of interest determined pursuant to paragraph 33.1 in respect of any period ending on a Calculation Date or Repayment Date is a negative amount (a “**Shortfall**”), the principal amount of the Contingent Loan Advance (or, if there is outstanding more than one Contingent Loan Advance) the earliest such Contingent Loan Advance shall be reduced for all purposes of this Part F with effect from such Calculation Date or, as the case may be, Repayment Date by an amount equal to such Shortfall.
- 33.4 The calculation of each amount of interest arising pursuant to paragraph 33.1 shall be made by LVLC as soon as practicable following the relevant Calculation Date or Repayment Date and shall be agreed between the RNPFN Fund Supervisory Board and the Shareholder and, in default of agreement within 30 days of submission of the calculation to the RNPFN Fund Supervisory Board and the Shareholder, may be referred by either of them for final determination by the Umpire. Subject to the terms of the Contingent Loans:
- (A) the payment of any such amount shall take place not later than 7 days following agreement or determination of the relevant amount pursuant to this paragraph 33.4; and
- (B) if the amount of interest determined pursuant to paragraph 33.1 in respect of any period ending on a Calculation Date or a Repayment Date is a positive amount, such amount shall be deemed to have fallen due for payment on the relevant Calculation Date or Repayment Date and the agreement or determination referred to in this paragraph shall include agreement or determination of, and there shall be paid as further interest on the Contingent Loan Advance, an additional amount equivalent to interest on the amount of interest determined pursuant to paragraph 33.1 calculated from day to day at LIBOR from the relevant Calculation Date or Repayment Date to the date of payment.

## **PART G - GOVERNANCE**

### **34. ADOPTION OF NEW LVLC ARTICLES**

- 34.1 The Shareholder and LVLC shall procure that on or before the Effective Date the New LVLC Articles are adopted as the articles of association of LVLC and, save to the extent that any amendment is made to the New LVLC Articles pursuant to paragraph 34.2 below, shall:
- (A) procure that to the extent to which they relate to the existence, appointment, operation, powers, duties and rights of the RNPFN Fund Supervisory Board the New LVLC Articles shall remain in force in the said form at all times;
  - (B) procure that any proposed transferee of shares in LVLC or any interest therein shall, prior to any transfer of such shares or any interest therein to him, undertake to LVLC to be bound by this paragraph 34; and
  - (C) take all steps reasonably available to enforce any undertaking given pursuant to paragraph (B) above.
- 34.2 The Shareholder shall procure that no amendment shall be made to the New LVLC Articles to the extent to which they relate to the existence, appointment, operation, powers, duties and rights of the RNPFN Fund Supervisory Board unless:
- (A) LVLC has ceased to maintain the separate RNPFN Fund pursuant to paragraph 28; or
  - (B) the Appointed Actuary has certified in writing that in his opinion the proposed amendment does not have an adverse effect on the reasonable expectations of the holders of Policies allocated to the RNPFN Fund and Excluded Policies (taking into account the Circular and the provisions of this Scheme) and:
    - (1) a copy of such certificate has been supplied to the Insurance Regulator and either the Insurance Regulator has, before the expiration of the period of three months beginning with the date on which it received such certificate, notified LVLC that it does not object to the amendment, or that period has elapsed without the Insurance Regulator having served on LVLC a written notice of objection; and
    - (2) a copy of such certificate has been supplied to the RNPFN Fund Supervisory Board on or prior to its supply to the Insurance Regulator.

### **35. RNPFN FUND SUPERVISORY BOARD**

- 35.1 The Shareholder and LVLC shall procure that the LVLC Board shall appoint and maintain in accordance with the New LVLC Articles the RNPFN Fund Supervisory Board as a committee of the LVLC Board, which shall be responsible for monitoring the management (including investment and bonus policy) of the RNPFN Fund. The members of the RNPFN Fund Supervisory Board shall, in carrying out their duties, have regard solely to the interests and reasonable expectations of the holders of Policies allocated to the RNPFN Fund and of Excluded Policies.

- 35.2 The powers, duties and rights of the RNPFN Fund Supervisory Board shall be those set out in the New LVLC Articles.
- 35.3 Each member of the RNPFN Fund Supervisory Board and any adviser appointed by the RNPFN Fund Supervisory Board pursuant to paragraph 35.4 shall be entitled:
- (A) during normal business hours and on reasonable notice to examine the books, records and accounts of LVLC or any other member of the Group, other than any such member to the extent it carries on the investment management of the property allocated to the RNPFN Fund, insofar as they relate to the RNPFN Fund or to the amount of any cost, charge or expense to be allocated to the RNPFN Fund;
  - (B) to be promptly supplied with such information including reports, analyses and projections of an actuarial nature from the Appointed Actuary in such form, at such times and with such frequency as each may reasonably require to keep him properly informed about the business of LVLC or any member of the Group insofar as it relates to the RNPFN Fund; and
  - (C) to have reasonable access to the Appointed Actuary and to the auditors of LVLC.
- 35.4 The RNPFN Fund Supervisory Board may take at the cost of the RNPFN Fund such external financial, accounting, actuarial, legal or other advice as it reasonably requires to perform its duties. LVLC shall provide, at the cost of the RNPFN Fund (to the extent that such costs are reasonable), such administrative and secretarial support to the RNPFN Fund Supervisory Board as is reasonably necessary to enable it properly to carry out its functions under this Scheme and the New LVLC Articles.
- 35.5 LVLC shall procure that details of any complaint, enquiry, investigation or disciplinary proceedings emanating from the Insurance Regulator or any other Regulatory Body having or claiming to have jurisdiction over the RNPFN Fund relating to any matter which might reasonably be expected to affect adversely the RNPFN Fund or the interests of any holders of Policies allocated to the RNPFN Fund or of Excluded Policies shall be promptly submitted to the members of the RNPFN Fund Supervisory Board.
- 35.6 Any member of the RNPFN Fund Supervisory Board may discuss the implementation of this Scheme or the reasonable expectations of the holders of Policies allocated to the RNPFN Fund or Excluded Policies with the Insurance Regulator or any other Regulatory Body, but only after first discussing the matter with the RNPFN Fund Supervisory Board, the LVLC Board and the Appointed Actuary.



**PART H - MISCELLANEOUS PROVISIONS****36. EFFECTIVE DATE**

- 36.1 Subject to the Transfer Agreement becoming unconditional in accordance with its terms, this Scheme shall become operative at 11.59 p.m. on 31 December 2001 or such other time and date as RNPFN and LVLC may agree (being a date and time falling after the making of the Order sanctioning this Scheme).
- 36.2 Unless this Scheme shall become operative on or before 30 June 2002 or such later date as the Court may allow upon the application of RNPFN (with the agreement of LVLC) it shall lapse.

**37. CERTIFICATION BY THE LVLC BOARD AND THE APPOINTED ACTUARY**

- 37.1 LVLC shall cause to be delivered to the Insurance Regulator, on or before the date in each year on which the annual return is made to the Insurance Regulator by LVLC in respect of its United Kingdom business in accordance with Section 22 of the Act or Rule 9.6 of IPRU(INS):
- (A) a certificate in writing from the LVLC Board, having been advised as to actuarial matters by the Appointed Actuary, stating whether the provisions of Parts E, F and G of this Scheme have been complied with since the date of the last such certificate or, in the case of the first such certificate, since the Effective Date (and, if not, detailing the respects in which such provisions have not been complied with);
  - (B) a certificate in writing from the Appointed Actuary stating whether the provisions of this Scheme relating to actuarial matters and any other matters in respect of which consultation with or advice or approval of the Appointed Actuary is required pursuant to this Scheme have been complied with (and, if not, detailing the respects in which such provisions have not been complied with); and
  - (C) a certificate in writing from the Appointed Actuary stating whether the investment and bonus policy of the RNPFN Fund has since the date of the last such certificate, or in the case of the first such certificate, since the Effective Date, had regard to the provisions of this Scheme (and, if not, detailing the respects in which the Appointed Actuary believes the relevant provisions of this Scheme have not been complied with).
- 37.2 A copy of each certificate referred to in paragraph 37.1 shall be sent to the RNPFN Fund Supervisory Board before it is sent to the Insurance Regulator.

**38. DUTIES OF THE APPOINTED ACTUARY**

- 38.1 The Appointed Actuary shall advise the LVLC Board as to the proper operation of the RNPFN Fund in accordance with the provisions of this Scheme and, in particular, as to any constraints which he may determine to be necessary in the operation of the RNPFN Fund or the Other Long Term Funds in order to safeguard the interests (as established by this Scheme) and reasonable expectations of the holders of Policies allocated to the RNPFN Fund and Excluded Policies.

38.2 The Appointed Actuary shall inform the LVLC Board if at any time he is of the opinion that the RNPFN Fund is being operated in a manner such that:

- (A) he may be unable to advise the LVLC Board pursuant to paragraph 37.1(A) that, so far as relates to actuarial matters, the relevant provisions of this Scheme have been complied with; or
- (B) he may be required to notify any matters in the next certificate he is required to give the Insurance Regulator in accordance with paragraph 37.1(B) or 37.1(C).

If the Appointed Actuary shall determine that the LVLC Board is taking or failing to take, or has taken or failed to take any action and that such action, or failure to take action, is or may in his opinion be prejudicial to the proper implementation of this Scheme, and he is dissatisfied with the reasons given by the LVLC Board for such action or failure to take action, he shall, having sought such guidance from the Institute or Faculty of Actuaries as he thinks appropriate, be obliged to report his concerns in writing to the Insurance Regulator.

38.3 The obligations and duties imposed on the Appointed Actuary by this Scheme shall be in addition to his statutory duties under the FSMA.

### **39. MODIFICATIONS OR ADDITIONS**

39.1 RNPFN and LVLC may consent for and on behalf of the parties hereto and all other persons concerned to any modification of or addition to this Scheme or to any further condition or provision affecting the same which, prior to its sanction of this Scheme, the Court may approve or impose.

39.2 If at any time the provisions of this Scheme prove impossible, impracticable or inequitable to implement, LVLC shall be at liberty, with the consent of the RNPFN Fund Supervisory Board, to apply to the Court for consent to amend its terms, provided that in any such case:

- (A) the Insurance Regulator shall be notified of and have the right to be heard at any hearing of the Court at which such application is considered; and
- (B) such application shall be accompanied by a certificate from an independent actuary to the effect that in his opinion the proposed amendment will not adversely affect the reasonable expectations of, or reduce the protections conferred by this Scheme on, the holders of Policies allocated to the RNPFN Fund or Excluded Policies.

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

**40. THIRD PARTY RIGHTS**

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

Dated this 19<sup>th</sup> day of October 2001.

**SCHEDULE 1****The Umpire**

1. The Umpire shall be an actuary or firm of consulting actuaries agreed on by the LVLC Board and the RNPFN Fund Supervisory Board or, if they cannot agree on such within seven days of one of them giving notice in writing to the other that an Umpire should be appointed, such actuary or firm of consulting actuaries as may be nominated on the application of either of them by the President of the Institute of Actuaries.
2. If any disagreement or dispute under this Schedule is referred to an Umpire:
  - (A) all relevant parties shall use all reasonable endeavours to co-operate with the Umpire in resolving such disagreement or dispute, and for that purpose shall provide to him all such information and documentation as he may reasonably require;
  - (B) the Umpire shall have the right to seek such professional assistance and advice as he may require in fulfilling his duties; and
  - (C) the fees of the Umpire (and any professional fees incurred by him) shall be paid by LVLC and charged equally to the RNPFN Fund and the Shareholders' Fund.
3. The Umpire shall be appointed to act as an expert and not as an arbitrator and the decision of the Umpire as to any matter referred to the Umpire shall be final and binding for all purposes of this Scheme.

## SCHEDULE 2

### Principles of Financial Management

1. The affairs of the RNPFN Fund shall be conducted in a sound and prudent fashion.

#### **Investment and bonus policies**

2. The investment and bonus policies for the RNPFN Fund:
  - (A) shall have regard to the interests and expectations (as modified by this Scheme) of the holders of Policies allocated to the RNPFN Fund and Excluded Policies ("**Relevant Policies**");
  - (B) shall be determined having regard to paragraphs 3(C) and 4, as if the RNPFN Fund comprised a separate notional life assurance company, subject to such constraints as may be necessary to ensure that such notional life assurance company would remain solvent in all reasonably foreseeable circumstances. For this purpose remaining solvent means maintaining a prudent level of the free assets in the RNPFN Fund (in excess of the Minimum Solvency Margin for the RNPFN Fund); and
  - (C) shall not be constrained in any way other than by the financial position of the RNPFN Fund and in accordance with the principles specified in this Schedule.

#### **Investment policy**

3. The investment policy for the RNPFN Fund shall be determined by LVLC (having taken account of the advice of the LVLC Appointed Actuary and after consultation with, and having regard to the views of, the RNPFN Fund Supervisory Board) and shall:
  - (A) have regard to the nature of the liabilities of the RNPFN Fund;
  - (B) aim to maximise the investment return earned on the assets in the RNPFN Fund whilst recognising the need to safeguard the financial security of the RNPFN Fund; and
  - (C) have regard to the capital support available pursuant to Part F of this Scheme. Investment policy will be set as if the Maximum Aggregate Capital Support at any time was included in the RNPFN Fund.

#### **Bonus policy**

4. The bonus policy for the RNPFN Fund shall be determined by LVLC (having taken account of the advice of the LVLC Appointed Actuary and after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board) by reference to the financial position, performance and experience of the RNPFN Fund, and in such a manner so as to distribute all the assets of the RNPFN Fund as equitably as possible during the remaining life of the Relevant Policies. Reversionary bonus policy shall disregard the capital support available pursuant to Part F of this Scheme whether or not any Contingent Loan Advances have in fact been made. It will be recognised that there is no intention to distribute the capital support.

5. Asset Shares shall be determined by reference to the investment performance, expenses, taxation and other experience of RNPFN prior to the Effective Date and by reference to the investment performance, expenses, taxation and other experience of the RNPFN Fund after the Effective Date. "**Asset Share**" means broadly, in relation to any With Profits Policy, the accumulation, at the investment rates of return earned, of premiums paid less amounts attributable to the Policy for expenses (including commission), taxation and the cost of benefits provided.
6. Subject to smoothing (see paragraph 7 below) payouts at maturity shall be targeted on 100 per cent. of Asset Shares with the addition of an enhancement to reflect the distribution pursuant to paragraph 4 above of the entire surplus assets in the RNPFN Fund.

#### **Smoothing of payouts**

7. Payouts on With Profits Policies shall be smoothed so as to avoid excessive differences in payouts on similar policies over short periods of time.

#### **Discretionary charges**

8. Discretionary charges on Transferred Policies which are Linked Policies and unitised With Profits Policies or increments to such Policies shall be managed from the Effective Date in a manner consistent with the reasonable expectations of the holders of such Policies, having regard, inter alia, to RNPFN's practice prior to the Effective Date.

#### **Future Appointed Actuary**

9. LVLC shall draw this Scheme and the reports of the Appointed Actuaries of RNPFN and LVLC and the Independent Actuary thereon to the attention of any future Appointed Actuary of LVLC at the time of his appointment.

**SCHEDULE 3****Expenses and charges to be borne by  
the RNPFN Fund****Part A - Charging Arrangements**

1. Amounts in respect of maintenance and termination expenses (excluding investment management fees) allocated to the RNPFN Fund in respect of Policies allocated to the RNPFN Fund and Excluded Policies shall for each of the 10 years from the Effective Date be calculated as the aggregate of the amounts determined by multiplying the annual per policy charge applicable in each calendar year (being a year ending on 31 December) by the average number of policies in force during such calendar year which shall be determined as one half of the aggregate number of policies in force at the beginning and end of each such calendar year and shall, so far as practicable, be so provisionally allocated monthly in advance. For this purpose, the annual per policy charges shall be set at the levels set out in Part B of this Schedule, adjusted (on a compound basis) on 1 January 2001 (for the calendar year commencing on that date) and each subsequent 1 January (for the calendar years thereafter), by reference to the sum of:
  - (A) the change in RPI over the previous 12 months; and
  - (B) 1 per cent. per annum.
2. Amounts in respect of acquisition and set up expenses allocated to the RNPFN Fund in respect of Policies written in the RNPFN Fund pursuant to paragraph 18 shall for 10 years from the Effective Date be set at the levels set out in Part C of this Schedule, adjusted (on a compound basis) on 1 January 2001 (for the calendar year commencing on that date) and each subsequent 1 January (for the calendar years thereafter), by reference to the sum of:
  - (A) the change in RPI over the previous 12 months; and
  - (B) 1 per cent. per annum.
3. Amounts allocated to the RNPFN Fund for expenses in relation to group pensions business shall for 10 years from the Effective Date be calculated as the actual expenses incurred (including a fair share of overhead expenses) as certified by the Appointed Actuary.
4. Amounts in respect of investment management fees to be allocated to the RNPFN Fund shall be fixed for 10 years from the Effective Date as the aggregate of:
  - (A) a monthly charge equivalent to an annual rate equal to 0.2 per cent of the average value of the property allocated to the RNPFN Fund less the average Contingent Loan Amount; and
  - (B) a monthly charge equivalent to an annual rate equal to 0.05 per cent. of the average Contingent Loan Amount.
5. Following the date falling 10 years after the Effective Date, amounts in respect of the acquisition, set up, maintenance and termination of Policies allocated to the RNPFN

Fund and Excluded Policies and investment management fees to be allocated to the RNPFN Fund shall not exceed the charges for similar services made by third party competitor companies, as determined by the LVLC Appointed Actuary (after consultation with, and having had regard to the views of, the RNPFN Fund Supervisory Board).



### Part B - Maintenance and Termination Expenses

The following table shows the annual per policy charges which will be made for maintenance and termination expenses in respect of Policies allocated to the RNPFN Fund, being the charges applicable for the calendar year ended 31 December 2000.

<b>Product Type</b>	<b>Policies Covered</b>	<b>Expenses Per Policy</b>
ISA	Regular and Single Premium ISA	£9.95
Life	Endowment, Whole Life, Term Assurance, With Profits Bonds	£10.18
Linked Life	Unit Linked Maximum Investment Plans, Unit Linked Bonds	£9.95
Deferred Annuity	Moneybuilders (mainly regular premiums)	£9.80
Immediate Annuities	Annuities in Payment	£26.45
Individual Pensions	Regular and Single Premium Personal Pensions and FSAVCs	£19.06

### Part C - Acquisition and set up expenses

The following table shows the charges (expressed as per policy charges) which will be made for acquisition and set up expenses on new business written in the RNPFN Fund, being the charges applicable for the calendar year ended 31 December 2000.

<b>Expenses by Product Type</b>	<b>Policy Types</b>	<b>Expenses Per Policy</b>
ISA	Regular and Single Premium ISA	As specified below
Immediate Annuities	Annuities in Payment	£194.36
Life	Endowment, Whole Life, Term Assurance, With Profits Bonds	£180.66
Linked Life	Unit Linked Maximum Investment Plans, Unit Linked Bonds	£227.57
Individual Pensions	Regular and Single Premium Personal Pensions and FSAVCs	£185.64

The charges in respect of ISAs shall be determined on a fair and equitable basis by the LVLC Appointed Actuary having regard to the terms of such Policies and the reasonable expectations of the holders of such Policies.

**SCHEDULE 4****Infrastructure**

1. All tangible assets (excluding any rights of occupation or ownership in respect of real property and any assets held as investments) used by RNPFN in the conduct of the Transferred Business including without limitation, furniture, computers and other tenant's fittings, office equipment, software, stationery, stocks of consumables and the like, vehicles, records and rights of occupation of operating freehold properties (excluding any rights of ownership in respect of freehold property).
2. The benefit and burden in respect of periods after the Effective Date of:
  - (A) all contracts, licences, leases, hire purchase and leasing agreements entered into by RNPFN in connection with the Transferred Business relating to the operation or investment management of RNPFN's long term funds excluding any contracts, licences, leases or agreements (other than employment contracts):
    - (1) which RNPFN and LVLC may agree prior to the Effective Date to exclude; and/or
    - (2) which LVLC reasonably regards as unduly burdensome to perform or unduly burdensome in the context of the merged RNPFN/LVFS Group (which shall not include any contracts, licences, leases or agreements disclosed in the RNPFN Disclosed Information (as defined in the Transfer Agreement) or which are incapable of being transferred to LVLC;
  - (B) leases of properties occupied by RNPFN immediately prior to the Effective Date in the conduct of the Transferred Business; and
  - (C) all contracts of employment between RNPFN and those employees employed by RNPFN in the Transferred Business.
3. All RNPFN's rights against third parties to the extent that they relate to the assets, contracts and rights listed in paragraphs 1 and 2 above.