

DATED

2016

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**TEACHERS PROVIDENT SOCIETY LIMITED**

- and -

**LIVERPOOL VICTORIA FRIENDLY SOCIETY LIMITED**

**INSTRUMENT OF TRANSFER OF ENGAGEMENTS**



Ref: C1/JSR/CSR  
Hogan Lovells International LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG

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**BETWEEN:**

- (1) **Teachers Provident Society Limited**, an incorporated friendly society (registered number 372F) whose registered office is at Tringham House, Wessex Fields, Deansleigh Road, Bournemouth, Dorset, BH7 7DT ("**Teachers**"); and
- (2) **Liverpool Victoria Friendly Society Limited**, an incorporated friendly society (registered number 61COLL) whose registered office is at County Gates, Bournemouth, Dorset BH1 2NF (the "**Transferee**").

**WHEREAS:**

- (A) Teachers is a friendly society authorised under FSMA with permissions under Part 4A of FSMA to effect contracts of long-term insurance in classes I and III and carry out contracts of long-term insurance in classes I, III and IV, in each case as set out in Part II of Schedule 1 to the RAO.
- (B) The Transferee is a friendly society authorised under FSMA with permissions under Part 4A of FSMA to carry out contracts of long-term insurance in classes I, III and IV as set out in Part II of Schedule 1 to the RAO.
- (C) Teachers and the Transferee have agreed that, on and subject to the terms of this Instrument and the 1992 Act, all of the engagements of Teachers shall be transferred to the Transferee on the Effective Date and that Teachers shall then be dissolved pursuant to section 86 of the 1992 Act.
- (D) Pursuant to the Teachers Circular, which includes a statement in accordance with Part I of Schedule 15 to the 1992 Act, the Teachers Board informed the Teachers Members of the Transfer and the Teachers Members duly passed a special resolution on 16 December 2015 pursuant to the Teachers Rules and the 1992 Act to approve the Transfer.
- (E) The Transferee Board resolved on 23 June 2015 pursuant to the Transferee Rules and the 1992 Act to approve the Transfer.
- (F) The PRA has given its confirmation to the Transfer pursuant to section 86(2)(e) of the 1992 Act.
- (G) Pursuant to section 86(4) of the 1992 Act, Teachers and the Transferee shall apply to the FCA to register a copy of the Instrument and to issue a registration certificate to the Transferee which shall specify a date as the Effective Date.

**IT IS AGREED AS FOLLOWS.**

## PART A - DEFINITIONS AND INTERPRETATION

### 1. DEFINITIONS AND INTERPRETATION

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

"**1992 Act**" means the Friendly Societies Act 1992;

"**Accounting and Actuarial Policies**" means the accounting and actuarial policies and procedures set out in Part D of Schedule 3;

"**Accounts**" means the accounts prepared in respect of Teachers as of 31 December 2013;

"**Actuarial Advice**" means advice from the With-Profits Actuary and/or the Actuary, as appropriate;

"**Actuary**" means the person appointed by the relevant friendly society or insurer from time to time to perform the "Chief Actuary function" in accordance with the Insurance – Senior Insurance Management Functions part of the Regulatory Handbook;

"**Additional Redundancy Payment**" means liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, penalties, costs and expenses whatsoever (but legal expenses to be limited to reasonable legal expenses) of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to the termination of employment of any Teacher's Employee where such employment is terminated on grounds of Redundancy after the Effective Date including those that are paid or incurred as a result of (1) the said termination; and/or (2) any claim (or the settlement of any claim) brought by or on behalf of any Teachers Employee because of the termination and any tax or social security or similar contributions payable on any such amounts, but excluding:

- (a) any payment or contributions listed in sub paragraph 2(a) of the definition of Redundancy Payment; and
- (b) any such liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, penalties, costs and expenses arising from:
  - (i) any discriminatory act or omission occurring after the Effective Date by TMS, the Transferee or any member of the Transferee's Group; and
  - (ii) any failure by TMS, the Transferee or any member of the Transferee's Group after the Effective Date to comply with sections 188 or 188A of the Trade Union & Labour Relations (Consolidation) Act 1992;

"**Anticipated NAV/PVFP**" means the NAV/PVFP which Teachers and the Transferee anticipate prior to the Effective Date will be the value of NAV/PVFP, being £21.8 million or such other amount as the parties agree in writing;

"**Anticipated Non-Profit Reserves**" means the Non-Profit Reserves which Teachers and the Transferee anticipate prior to the Effective Date will be the value of the Non-Profit Reserves, being £400 million or such other amount as the parties agree in writing;

**"Board Certificate"** means the annual certificate to be provided by the Transferee Board pursuant to paragraph 26.1;

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

**"COBS"** means the New Conduct of Business Sourcebook in the Regulatory Handbook;

**"Committee of Management"** means the committee of management which a friendly society is required to have for the purposes of section 27 of the 1992 Act;

**"Conduct Requirements"** means the requirements of Schedule 5 relating to the management of certain employee related claims;

**"Contribution"** means the amount payable by the Transferee for the Goodwill, the NAV and the PVFP to be allocated to the TA Fund being, as at the Effective Date, the sum of the Goodwill and the Anticipated NAV/PVFP which is £26.1 million, as adjusted in accordance with this Instrument;

**"Designated Subsidiaries"** means each of TAC, TFS, TMS and TPL;

**"Disagreement Notice"** means a notice which may be given in writing by David Furniss giving notice that he disagrees with the Effective Date NAV/PVFP/Non-Profit Reserves Statement or any item therein as prepared by the Transferee;

**"Early Retirement Obligations"** means all payments, liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, penalties, costs and expenses whatsoever (whether arising before, on or after the Effective Date) of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to any right or expectation of any Teachers Employee or Executive to take an early retirement pension which arose from any occupational pension scheme, personal pension scheme or any contract of employment that was in place prior to the Effective Date;

**"Effective Date"** means the time and date on which this Instrument becomes effective in accordance with paragraph 29;

**"Effective Date NAV/PVFP"** means the value of the NAV/PVFP as shown in the Effective Date NAV/PVFP/Non-Profit Reserves Statement agreed in accordance with Schedule 3;

**"Effective Date NAV/PVFP/Non-Profit Reserves Statement"** means the statement in the form set out in Part C of Schedule 3;

**"Effective Date Non-Profit Reserves"** means the value of Non-Profit Reserves as shown in the Effective Date NAV/PVFP/Non-Profit Reserves Statement agreed in accordance with Schedule 3;

**"Encumbrance"** means any mortgage, charge (fixed or floating), pledge, lien, option, restriction, right to acquire, right of pre-emption, assignment by way of security or trust arrangement for the purpose of providing security or other security interest of any kind (including any retention arrangement), or any agreement to create any of the foregoing;

**"Executives"** means each of David Furniss, Ian Blanchard and Wendie Michie;

**"Executive Payments"** means all payments, liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, penalties, costs and expenses whatsoever (whether arising before, on or after the Effective Date) of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to the employment of or termination of employment of any of the Executives (including for the avoidance of doubt the enforcement of any of the provisions of any termination of employment agreement), PROVIDED THAT this shall not include any payments, liabilities or obligations, amounts, penalties, costs or expenses which arise as a result of a claim by David Furniss arising as a result of any unlawful act or omission of the Transferee or a member of the Transferee Group in respect of him in the period from the Effective Date to the effective date of termination of his employment which is not a claim in connection with the termination of his employment or the Transfer;

**"Ex-Teachers Linked Fund"** means a Linked Fund established by the Transferee pursuant to paragraph 12.1;

**"Exii"** means Exii Software Limited, a company incorporated in England and Wales with registered number 4578048;

**"FCA"** means the Financial Conduct Authority or such other governmental, statutory, regulatory or other authority as shall from time to time carry out all or any of such functions in relation to Long-Term Insurance Business carried on in the United Kingdom as were at the date of this Instrument allocated to the Financial Conduct Authority under FSMA;

**"Financial Year"** means each period for which the Transferee prepares annual Regulatory Returns;

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

**"Goodwill"** means the goodwill relating to Teachers' new business functions, infrastructure, product design, brand and on-going distribution franchise arrangements, for which £4.3 million in cash will be transferred to the TA Fund immediately after the Effective Date as part of the Contribution;

**"Independent Actuary"** means the actuary instructed to prepare a report for the purposes of section 88 of the 1992 Act on the terms of the Transfer and as to his opinion on the likely effects of the Transfer on the Long-Term Policyholders of Teachers and the Transferee, being John McKenzie of Milliman LLP;

**"Independent Member"** means a person who is not employed by, and does not hold any position (whether executive or non-executive) on the board of, any member of the Transferee Group and who, in addition, is not a person who:

- (a) is or has been, at any time in the three years preceding his appointment, an employee of the Transferee or any member of the Transferee Group (excluding employment by any member of the Teachers Group prior to the Effective Date); or
- (b) has or has had, at any time in the three years preceding his appointment, any form of material consulting or contractual relationship with the Transferee or any member of the Transferee Group other than as a retail customer (excluding any relationship with any member of the Teachers Group prior to the Effective Date);  
or

- (c) receives or has received, at any time in the three years preceding his appointment, additional remuneration from the Transferee or any member of the Transferee Group (excluding any remuneration received in any capacity from any member of the Teachers Group prior to the Effective Date, including any fee for acting as a member of the Teachers' with-profits committee); or
- (d) has served on the Transferee WPC (or any with-profits or equivalent committee of any member of the Transferee Group or any other predecessor company whose With-Profits Policies or with-profits funds is or has been transferred to the Transferee) for more than nine years from the date of his first election, save that any Independent Member who has served for more than nine years from the date of his first election may continue to serve subject to annual confirmation by the With-Profits Actuary for the TA Fund that, in the opinion of the With-Profits Actuary, he remains sufficiently independent;

**"INSPRU"** means the Prudential Sourcebook for Insurers in the Regulatory Handbook;

**"Instrument"** means this Instrument of Transfer in its original form or with or subject to any modification, addition or condition that may be approved or imposed by the Insurance Regulators in accordance with paragraph 30;

**"Insurance Regulators"** means, as the context requires, the FCA or the PRA or both;

**"Intellectual Property Rights"** means goodwill and intellectual property rights owned or used by the Teachers Group including all rights to the trading names, domain names and brands "*Teachers Assurance Company*", and "*Teachers Provident Society*" and including all trade mark registrations held by the Teachers Group in respect of such brands and other rights of the same or similar effect as any of the foregoing anywhere in the world, in each case whether registered or not including pending applications for registration of such rights;

**"Internal Model Costs"** means any costs and expenses incurred in the adoption and application of an internal model in respect of the TA Fund under Solvency II in excess of any such costs or expenses that would have ordinarily been incurred had the TA Fund adopted the standard model under Solvency II;

**"IPRU(INS)"** means the Interim Prudential Sourcebook for Insurers in the Regulatory Handbook;

**"Linked Fund"** means an internal linked fund maintained by Teachers prior to the Effective Date or by the Transferee prior to or following the Effective Date for the purpose of calculating benefits payable under Linked Policies (including such a fund maintained for the purpose of calculating benefits linked to the value of external unit trusts);

**"Linked Policies"** means those Transferred 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 Transferred Policies) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not specified);

**"Long-Term Insurance Business"** means the business of effecting and carrying out long-term insurance contracts in any of the classes set out in Part II of Schedule 1 to the RAO;



**"Long-Term Insurance Contracts"** means contracts falling within any of the classes set out in Part II of Schedule 1 to the RAO;

**"Long-Term Policyholders"** means Policyholders in respect of Long-Term Insurance Contracts;

**"Loss"** or **"Losses"** means any loss, expense, liability, claim, damages, penalty, fine, cost (including legal costs and experts' and consultants' fees and including, for the avoidance of doubt, Taxation), charges, demands, actions or proceedings and it shall include any costs or expenses incurred for the purpose of settling any complaint or claim or any agreed settlement or compromise (including an ex gratia payment made in the interests of saving or reducing any such loss, costs or expenses);

**"LV Scheme"** means the LV=Employee Pension Scheme, an occupational pension scheme governed by a Definitive Trust Deed and Rules dated 2 April 2015 (as amended from time to time);

**"LV VAT Group"** means the group for VAT purposes of which the representative member is the Transferee;

**"Main Fund"** means the fund established by the Transferee within its insurance business which immediately prior to the Effective Date contains all the business of the Transferee other than that allocated to the sub-fund known as the RNPFN Fund;

**"Member Payments"** means the cash amounts to be paid to members of Teachers in accordance with paragraph 13;

**"Mis-selling Liability"** means any liability, cost, expense or loss pursuant to a complaint or claim by a holder of a Transferred Policy or any policy allocated to the TA Fund after the Effective Date in accordance with this Instrument of Transfer or a customer of the Teachers Group or their dependents arising from the conduct of the sale or marketing of such a Policy to them or advice given in respect of such a Policy including:

- (a) any payments to a holder of a Transferred Policy or any policy allocated to the TA Fund after the Effective Date in accordance with this Instrument of Transfer or a customer of the Teachers Group or their dependents by way of redress, compensation, settlement, compromise or ex gratia payment;
- (b) any fines, penalties or levies imposed by the FCA, the Financial Services Ombudsman or any other regulator;
- (c) any reasonable costs and expenses incurred in identifying, investigating and reviewing any such complaints or claims (including internal administration costs and the fees paid to external advisers);

**"Moneo"** means Moneo Limited, a company incorporated in England and Wales with registered number 3736527;

**"NAV"** means the net asset value of the Designated Subsidiaries less the Pension Asset as at the Effective Date;

**"NAV/PVFP"** means the sum of the NAV and PVFP less the Transferee's Cost of Capital as at the Effective Date;

**"Non-Profit Business"** means all in-force non-profit business of Teachers immediately prior to the Effective Date;

**"Non-Profit Policy"** means a Policy falling within Part II of Schedule 1 to the RAO that is not a With-Profits Policy;

**"Non-Profit Reserves"** means the reserves required for the Transferred Non-Profit Policies as at the Effective Date with a value equal to the Pillar 1, Peak 1 mathematical reserves calculated in accordance with INSPRU 1.2 as in effect on 31 December 2015;

**"Pension Asset"** means any pension asset identified in the accounts of TMS as at the Effective Date;

**"Pension Liabilities"** means all liabilities, or obligations (including any past, current, future or contingent liabilities or obligations), amounts, contributions, penalties, costs and expenses whatsoever (whether arising before, on or after the Effective Date) of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to the Teachers Group Pension Scheme including, but not limited to, any liabilities, obligations, contributions, penalties, costs and expenses incurred in relation to the operation, funding, investment, administration, management or winding-up of the Teachers Group Pension Scheme whether payable under statute, under the trust deed and rules of the Teachers Group Pension Scheme as a result of any action by any tax or regulatory authority or otherwise;

**"Pension Trustees"** means the trustees of the Teachers Group Pension Scheme from time to time;

**"Policy"** and **"Policyholder"** shall have the meanings ascribed thereto by the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 and shall include any constituent part of a Policy which gives rise to a separately identifiable benefit;

**"PPFM"** means the Principles and Practices of Financial Management required to be established and maintained in respect of a with-profits fund pursuant to COBS;

**"PRA"** means the Prudential Regulation Authority or such other governmental, statutory, regulatory or other authority as shall from time to time carry out all or any of such functions in relation to Long-Term Insurance Business carried on in the United Kingdom as were at the date of this Instrument allocated to the Prudential Regulation Authority under FSMA;

**"Pre Agreed Pot"** means an amount equal to one quarter of the total gross pay in the 12 month period prior to the Effective Date of the employees (other than the Executives) who are employed by TMS at the Effective Date;

**"Pre-Completion Undertakings"** has the meaning given to that term in the Transfer Agreement;

**"Pre Transfer Employment Liabilities"** means all liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, penalties, costs and expenses whatsoever of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group, arising out of or in relation to the employment or engagement (or termination of employment or engagement) of any Teachers Employee, or Executive, which arose out of or in connection with such employment or engagement or termination of employment or engagement prior to the Effective Date including any

liabilities in respect of deferred bonuses and retention arrangements awarded or promised before the Effective Date whether payable before on or after the Effective Date but excluding any amounts referred to in clause 12.5 of the Transfer Agreement;

**"Proceedings"** means any claim, counterclaim, complaint, petition, suit, appeal or other legal process (including any application), whether current or future and whether intended to have interim or final legal effect in relation to its subject matter, before any court, governmental authority, regulatory authority, tribunal, arbitration panel, ombudsman or other body subsisting or empowered by law or regulation or by the provisions of an agreement;

**"PVFP"** means the present value of future profits of the Non-Profit Business as at the Effective Date;

**"Qualifying Member"** has the meaning ascribed to it in Schedule 2;

**"RAO"** means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

**"Records"** means all documents, files and other records, whether in physical or electronic form, relating to the Transferred Engagements which are in the possession of, or under the control of, the Teachers Group;

**"Redundancy"** shall have the meaning in section 195 of the Trade Union and Labour Relations (Consolidation) Act 1992;

**"Redundancy Payment"** means in respect of the termination of any Teacher's Employee on grounds of Redundancy:

(1) where such termination is effected before or on the Effective Date, all liabilities, obligations (including any past, current, future or contingent liabilities or obligations), amounts, contributions, penalties, costs and expenses (but for the avoidance of doubt legal expenses to be limited to reasonable legal expenses) whatsoever of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to such termination including those that are paid or incurred as a result of (a) the said termination; and/or (b) any claim (or the settlement of any claim) brought by or on behalf of any Teachers Employee because of the termination and for the avoidance of doubt the amounts in (a) and (b) will include any payment in lieu of notice, any severance or redundancy payment (whether paid under statute, contract, collective agreement or custom and practice) and any compensation ordered by a court or payment made to settle any claims and any tax or social security or similar contributions payable on any such amounts;

(2) where such termination is effected during the 18 month period after the Effective Date:

(a) any payment in lieu of notice, any redundancy payment (calculated under the statutory formula save that the limitation on the weekly cap shall not apply, such payment to include any entitlement under section 135 of the Employment Rights Act 1996) and any social security or similar contributions payable on any such amounts; and

(b) 100% of any Additional Redundancy Payments up to the Pre Agreed Pot; and

(c) subject to the Transferee's compliance with the Conduct Requirements, the Relevant Percentage of any Additional Redundancy Payments in excess of the Pre Agreed Pot;

**"Regulatory Change"** has the meaning given in paragraph 30.4(b);

**"Regulatory Handbook"** means the rules and guidance issued or deemed to have been issued by the Insurance Regulators pursuant to Part 9A of FSMA;

**"Regulatory Returns"** means the returns to the PRA required by Chapter 9, and in particular Rule 9.6, of IPRU(INS) (or any replacement of such returns);

**"Relevant Percentage"** means (1) if following the presentation of a complaint of unfair dismissal to a Tribunal (or a higher court) the Transferee seeks the agreement of the Teachers Nominee to settle on terms that are less than the claimant's schedule of loss or (if less) the maximum that could be awarded by the Tribunal (or higher court) and the Teachers Nominee does not agree to such settlement and there is a hearing of the claim on liability, 75%; and (2) in all other circumstances, 50%;

**"RGA"** means RGA Global Reinsurance Limited and RGA International Reinsurance Company Limited;

**"RGA Agreements"** means the agreements with RGA in force on the Effective Date;

**"Services"** has the meaning given to that term in paragraph 21;

**"Signing Date"** means the date of signing of the Transfer Agreement;

**"Solvency II"** means directive 2009/138/EC of the European Parliament and of the Council of the European Union on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) as amended by Omnibus II and any law, regulation or rules implementing it;

**"Special Bonus"** means the special bonus to be allocated in accordance with paragraph 14 and Schedule 4;

**"Subsidiaries"** means SUTM, TAC, TFS, TML, TMS, TPL, Exii and Moneo;

**"SUP"** means the Supervision Manual in the Regulatory Handbook;

**"SUTM"** means Sovereign Unit Trust Managers Limited, a company incorporated in England and Wales with registered number 2072297;

**"SUTM Disposal"** means a disposal of SUTM or its entire business;

**"SUTM Sale Failure"** means the SUTM TAM Disposal or any other SUTM Disposal has not completed by the Effective Date or binding documents for a SUTM Disposal have not been entered into by the Effective Date in accordance with the Transfer Agreement;

**"SUTM TAM Disposal"** means the proposed disposal of the business of SUTM to Threadneedle Investment Services Limited pursuant to the SUTM Transfer Documents;

**"SUTM Transfer Documents"** means the documentation governing the SUTM TAM Disposal dated 18 December 2014 and 14 April 2015;

**"TA Fund"** means the fund bearing the name "Teachers Assurance Fund" to be established by the Transferee within its insurance business with effect from the Effective Date;

**"TA Fund PPFM"** means PPFM relating to the TA Fund;

**"TAC"** means Teachers Assurance Company Limited, a company incorporated in England and Wales with registered number 314801;

**"Tax"** or **"Taxation"** means all forms of tax, duty, rate, levy, contribution, charge or other imposition, liability or withholding in the nature of tax whenever or by whatever authority imposed and whether of the United Kingdom or elsewhere, whether directly or primarily chargeable against, recoverable from or attributable to insurers, friendly societies, members, Policyholders or any other person, together with any related interest, penalty, charge or fine;

**"Tax Authority"** means a taxing or other governmental (local or central) state or municipal authority whether within or outside the United Kingdom competent to collect or administer a liability for Tax;

**"Teachers Board"** means the Committee of Management of Teachers;

**"Teachers Circular"** means the circular addressed to the Teachers Members containing the statement required under Schedule 15 to the 1992 Act and a notice convening the meeting at which the special resolution of the Teachers Members regarding the Transfer was considered;

**"Teachers Employee"** means any individual who at or at any time prior to the Effective Date is or was any employee, worker, director, officer of or individual independent contractor to Teachers or any member of the Teachers Group other than an Executive;

**"Teachers Group"** means Teachers and the Subsidiaries;

**"Teachers Group Business"** has the meaning given to that term in the Transfer Agreement;

**"Teachers Group Pension Scheme"** means the Teachers Assurance Group Pension Scheme, which is governed by a Definitive Trust Deed and Rules dated 27 May 2009 (as amended from time to time);

**"Teachers Members"** means the members of Teachers pursuant to the Teachers Rules;

**"Teachers Nominee"** means a member of the Transferee WPC nominated pursuant to paragraph 19.1;

**"Teachers Policyholder"** means a Policyholder of Teachers;

**"Teachers Rules"** means the rules of Teachers as at the Effective Date;

**"Teachers Warranties"** has the meaning given to that term in the Transfer Agreement;

**"TFS"** means Teachers Financial Services Limited, a company incorporated in England and Wales with registered number 3401635;

**"TML"** means Teachers Motor Limited, a company incorporated in England and Wales with registered number 1635687;

**"TMS"** means Teachers Management Services Limited, a company incorporated in England and Wales with registered number 3401641;

**"Towers Watson Report"** means the report entitled "Project Pantone" dated 15 July 2014;

**"TPL"** means Teachers Property Limited, a company incorporated in England and Wales with registered number 4147719;

**"Transfer"** means the transfer of the Transferred Engagements of Teachers to the Transferee to be effected under section 86 of the 1992 Act as contemplated by this Instrument;

**"Transfer Agreement"** means the agreement dated 18 December 2014 between Teachers and the Transferee providing, *inter alia*, for the carrying out of this Instrument;

**"Transfer Costs"** means any losses, liabilities, claims, awards, damages, demands, judgments, settlements, costs and expenses incurred by either party:

- (a) resulting from any challenge (whether successful or unsuccessful) to the transfer of any Transferred Contract and Transferred Asset by a third party or the failure to complete or satisfy any additional condition, procedure or formality in respect of such Transferred Contract or Transferred Asset;
- (b) attributable to any refusal of consent by a third party for the transfer of any Transferred Contract or Transferred Asset or the requiring by a third party of any amendment or enhanced payment to be made as a result of granting its consent;

**"Transferee Actuary"** means the Actuary of the Transferee;

**"Transferee Board"** means the board of directors of the Transferee;

**"Transferee Group"** means the Transferee, its holding companies from time to time, its subsidiaries from time to time and the subsidiaries from time to time of any such holding company, and **"Transferee Group Company"** means any member of the Transferee Group;

**"Transferee Members"** means the members of the Transferee pursuant to the Transferee Rules;

**"Transferee Rules"** means the rules of the Transferee from time to time;

**"Transferee WPC"** means the committee of the Transferee Board established in accordance with COBS 20.5.1 to support the Transferee Board in discharging its governance responsibilities in relation to the holders of With-Profits Policies or any such replacement arrangement from time to time;

**"Transferred Assets"** means all property of Teachers whatsoever and wheresoever situated as at the Effective Date, including:

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

- (c) the Intellectual Property Rights; and
- (d) all Records, information and data owned by the Teachers Group;

**"Transferred Contracts"** means all of the contracts whatsoever to which Teachers is a party relating to the Transferred Engagements (excluding for the avoidance of doubt any employment contracts of Teachers Employees and the Executives) and including the RGA Agreements;

**"Transferred Engagements"** means all of the business of Teachers, including the Transferred Policies, the Transferred Assets, the Transferred Liabilities, rights, contracts, outwards reinsurance contracts and the shares held by Teachers in the Subsidiaries and 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;

**"Transferred Liabilities"** means all liabilities whatsoever (whether current or future, certain or contingent) of Teachers as at the Effective Date including all liabilities of Teachers under the Transferred Policies, the Transferred Contracts, the Pensions Liabilities and all liability to Taxation chargeable on Teachers and attributed to the Transferred Engagements, howsoever incurred;

**"Transferred Non-Profit Policy"** means a Transferred Policy which is not a With-Profits Policy;

**"Transferred Policies"** means every Policy written by Teachers or transferred to Teachers prior to the Effective Date under which any liability remains unsatisfied or outstanding at the Effective Date and comprised in the Transferred Engagements, including:

- (a) Policies written by Teachers which have lapsed on or before the Effective Date and which are reinstated by the Transferee after the Effective Date; and
- (b) all proposals for insurance received by or on behalf of Teachers before the Effective Date which have not become Policies in force by the Effective Date but which subsequently become Policies;

**"Transferred With-Profits Policy"** means a Transferred Policy which is a With-Profits Policy and **"Transferred With-Profits Policyholder"** means the holder of a Transferred Policy which is a With-Profits Policy;

**"Transferee's Cost of Capital"** means the amount calculated in accordance with Part D of Schedule 3;

**"TUPE Liability"** means:

- (1) all liabilities or obligations (including any past, current, future or contingent liabilities or obligations), amounts, contributions, penalties, costs and expenses whatsoever (but for the avoidance of doubt legal expenses to be limited to reasonable legal expenses) whether arising before, on or after the Effective Date of Teachers, any member of Teachers Group, the Transferee or any member of the Transferee Group arising out of or in relation to the application or the alleged application of Regulations 13 to 16 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (information and consultation) to or in respect of the employment of any Teachers Employee or Executive arising out of or in connection with the Transfer, the Secondment Agreement at Schedule 13 of the Transfer Agreement and/or any subsequent integration of the business or

activities of Teachers or any member of the Teachers Group including any amounts that are ordered to be paid by any Tribunal or higher court and any amounts paid to settle any claims brought before a Tribunal or higher court up to £750,000 in aggregate; and

(2) provided that the Transferee has complied with the Conduct Requirements 50 % of such liabilities, obligations, amounts contributions, penalties, costs and expenses whatsoever (but for the avoidance of doubt legal expenses to be limited to reasonable legal expenses) as are more particularly described in sub paragraph (1) of this definition that are in excess of £750,000 in aggregate;

**"VAT"** means United Kingdom value added tax as provided for in VATA or any equivalent tax in any other jurisdiction;

**"VATA"** means the Value Added Tax Act 1994;

**"Waiver"** means the modification under section 148 of FSMA from COBS 20.2.23 in relation to the costs and expenses to be charged to the TA Fund under and in accordance with this Instrument;

**"With-Profits Actuary"** means the person appointed by the relevant friendly society or insurer from time to time to perform the "with-profits actuary function" in accordance with paragraph 2.2 of the Actuaries part of the Regulatory Handbook in respect of the relevant with-profits fund or funds;

**"With-Profits Policy"** means a Policy falling within Part II of Schedule 1 to the RAO under which either benefits provided or contributions required to be made may vary by reference to bonuses declared on that Policy; and

**"WPA Certificate"** means the annual certificate to be provided by the Transferee Board pursuant to paragraph 26.2.

1.2 Unless the subject or context requires otherwise, in this Instrument:

- (a) **"property"** includes property (including real property and charges registered at the Land Registry within England and Wales and at the Registers of Scotland in Scotland and elsewhere and unregistered real property and charges), assets, cash, Encumbrances, causes of action, rights (including 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, income or interest accrued but unpaid, powers of any description and any interest whatsoever in any of the foregoing;
- (b) **"liabilities"** includes duties and obligations of every description (whether present or future, actual or contingent);
- (c) **"transfer"** includes (as the context may require) "assign," "assignment" or "assignment," "dispose" or "disposal," or "convey" or "conveyance";
- (d) 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;
- (e) any reference in this Instrument 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;

- (f) any reference to any rules or regulations issued by the Insurance Regulators shall be deemed to include a reference to such rules or regulations as amended or replaced from time to time, and any reference to any provision of the Regulatory Handbook which is not in force at the date of this Instrument but will be in force by the Effective Date shall, in respect of the period before it comes into force, be deemed to include a reference to such rules or regulations issued by the Regulators as most closely corresponded to that provision at the date of this Instrument;
- (g) expressions which have meanings under the 1992 Act or FSMA shall bear those meanings (and in case of conflict FSMA shall prevail);
- (h) the expressions "**holding company**" and "**subsidiary**" shall have the same meanings as in the Companies Act 2006;
- (i) any reference to this Instrument shall include the Schedules to it and references to paragraphs, Parts or the Schedules are to paragraphs or Parts of or the Schedules to this Instrument;
- (j) headings are inserted for convenience only and shall not affect the construction of this Instrument;
- (k) 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;
- (l) the "United Kingdom" shall bear the same meaning as in the Interpretation Act 1978;
- (m) 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;
- (n) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (o) any reference to a calculation, decision, determination or opinion of any of the Teachers Board, the Transferee Board or the Transferee WPC (or any similar expression) shall be deemed to include a calculation, decision, determination or opinion of a duly constituted committee or duly authorised representative of the Teachers Board, the Transferee Board or the Transferee WPC (as appropriate);
- (p) a reference to "including" or "includes" means including or includes without limitation;
- (q) the expression "**variation**" shall include any variation, supplement, deletion, replacement or termination, however effected;
- (r) any reference to an amount shall be exclusive of any applicable VAT or other Tax; and
- (s) any reference to pounds or £ shall be to pounds sterling or £ sterling in the currency of the United Kingdom.

## **PART B – TRANSFER**

### **2. TRANSFER OF ENGAGEMENTS**

- 2.1 On and with effect from the Effective Date, the Transferred Engagements shall be transferred to and be vested in the Transferee in accordance with this Instrument, so that:
- (a) each Transferred Asset and all the interest of Teachers in it shall, by this Instrument and without any further act or instrument, be transferred to and be vested in the Transferee, subject to all Encumbrances (if any) affecting such asset;
  - (b) each Transferred Liability shall, by this Instrument and without any further act or instrument, be transferred to and become a liability of the Transferee and shall cease to be a liability of Teachers; and
  - (c) Teachers shall be dissolved following the Transfer pursuant to section 86(5)(b) of the 1992 Act.
- 2.2 The Transferee shall accept without investigation or requisition such title as Teachers shall have to the Transferred Assets at the Effective Date.
- 2.3 Teachers and the Transferee shall take reasonable steps, and shall execute such documents as may be reasonably required by either of them at any time, to effect or perfect the transfer to the Transferee of any Transferred Asset pursuant to this Instrument.
- 2.4 The Transferred Assets and the Transferred Liabilities shall be allocated in accordance with Part C.
- 2.5 On and with effect from the Effective Date, the Transferee shall:
- (a) succeed to all rights, liabilities and obligations of Teachers in respect of any personal data which relates to the Transferred Engagements and which is subject to the Data Protection Act 1998;
  - (b) become the data controller of any personal data which relates to the Transferred Engagements and which is subject to the Data Protection Act 1998 in place of Teachers to the extent to which the Transferee will amount to a data controller under the Data Protection Act 1998; and
  - (c) in respect of any personal data which relates to the Transferred Engagements be under the same duty by virtue of any law as Teachers was under to respect the confidentiality and privacy of any person in relation to that personal data and shall be bound by any specific notice or consent given, or request made by, the data subject which was binding on either Teachers or the Transferee and which required either Teachers or the Transferee not to use the personal data for marketing purposes,

and in any consent given by a data subject in respect of such data as is mentioned in this paragraph 2.5, any reference to Teachers shall be deemed to include a reference to the Transferee.

**3. MEMBERSHIP OF THE TRANSFEREE**

On and with effect from the Effective Date, each holder of a Transferred Policy who is a Teachers Member immediately prior to the Effective Date shall become (at no cost to such persons) a member of the Transferee, with the same rights and benefits as the existing Transferee Members.

**4. CONTINUITY OF PROCEEDINGS**

4.1 On and with effect from the Effective Date, any Proceedings issued, served, pending, threatened or otherwise in connection with the Transferred Engagements, the Transferred Policies, the Transferred Assets or the Transferred Liabilities in respect of which Teachers is a party (including as the plaintiff, claimant, applicant, defendant, respondent, pursuer, defender or petitioner), and including any such Proceedings commenced in error against Teachers on or after the Effective Date, shall be continued or commenced by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims, settlements, rights of set-off and any other rights that that would have been available to Teachers in relation to the Transferred Engagements, the Transferred Policies, the Transferred Assets, the Transferred Liabilities and such Proceedings.

4.2 Any judgment, settlement, order or award obtained by or against Teachers to the extent that it relates to any part of the Transferred Engagements, or the Transferred Policies, from the Effective Date shall, to the extent to which it was enforceable by or against Teachers immediately prior to the Effective Date, become enforceable by or against the Transferee (to the exclusion of Teachers).

**5. RIGHTS AND OBLIGATIONS IN RELATION TO THE TRANSFERRED ENGAGEMENTS**

5.1 On and with effect from the Effective Date, the Transferee shall become entitled to all the rights, claims, benefits and powers of Teachers 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 or is a party to, or has the benefit of, any other agreement with Teachers relating to the Transferred Engagements 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 Teachers under any of the Transferred Policies or any other such agreement relating to the Transferred Engagements, to the same rights against the Transferee as were available to him against Teachers under such Policies or such other agreement relating to the Transferred Engagements 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 the Transferee for any further or additional premiums or other sums attributable or referable thereto as and when the same become due and payable (including, for the avoidance of doubt, any amount due and payable, but unpaid as at the Effective Date).

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 Transferee Board, having regard to Actuarial Advice and advice (to the extent the Transferee Board considers it appropriate) of

the Transferee WPC, 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 the Transferee 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 the Transferee of such a Policy) if the Transferee is not at the time of the exercise of such right or option writing Policies complying exactly with the Policy to which such right or option refers, the Transferee shall be entitled to offer to such person as an alternative (and, if accepted, in lieu thereof) the Policy commonly offered by the Transferee which the Transferee considers to be the nearest equivalent Policy in accordance with the terms and conditions applicable to Policies of the Transferee at that time, provided that the issue of such alternative Policy would not in the opinion of the Transferee Board (having regard to Actuarial Advice and advice (to the extent the Transferee Board considers it appropriate) of the Transferee WPC) result in a liability or in an increase in liability to Taxation of the holder of such Policy (or, in the event that such liability or increase in liability would occur, the Transferee shall have the option to indemnify the Policyholder in full and to issue another Policy pursuant to this paragraph) or otherwise fail to satisfy his reasonable expectations.

- 5.4 All references relating to the Transferred Engagements in any Transferred Policy or any other agreement or document (including in a contract to which Teachers is party, a contract to which Teachers is not party or elsewhere and whether in writing or not) to Teachers, the Teachers Board, its Actuary, its With-Profits Actuary or any other officers, employees or agents of Teachers shall, from and after the Effective Date, be read and construed as references to the Transferee, the Transferee Board, the Transferee Actuary, the With-Profits Actuary for the TA Fund or any other officers, employees or agents of the Transferee as applicable. In particular, but without limitation, all rights and duties exercisable or expressed to be exercisable or responsibilities to be performed by Teachers, the Teachers Board, its Actuary, its With-Profits Actuary or any other officers, employees or agents of Teachers in relation to any Transferred Policy or other agreement or document relating, in each case, to the Transferred Engagements (including in a contract to which Teachers is party, a contract to which Teachers is not party or elsewhere and whether in writing or not) shall, from and after the Effective Date, be exercisable or required to be performed by the Transferee, the Transferee Board, the Transferee Actuary, the With-Profits Actuary for the TA Fund or any other officers, employees or agents of the Transferee.
- 5.5 On and with effect from the Effective Date, all references in a Transferred Policy or any other agreement or document to the Teachers with-profits fund or a Linked Fund of Teachers shall be replaced by a reference to the TA Fund or corresponding Linked Fund of the Transferee (as the case may be) and all other provisions associated therewith shall be construed accordingly.
- 5.6 The Transferee shall, on and from the Effective Date, take over from Teachers the administration and negotiation of proposals for insurance which would be Transferred Policies if the Transferee determined to accept them (but whether or not the Transferee does so determine). The Transferee shall bear all expenses and liabilities in relation thereto and any liability in relation to interim death benefits. Nothing contained herein shall oblige the Transferee to accept any proposal for insurance received by or on behalf of Teachers before the Effective Date but not accepted by Teachers by then.

- 5.7 On and with effect from the Effective Date, the Records which may include personal data protected by the Data Protection Act 1998, shall be transferred to the Transferee and may be used by the Transferee for, and disclosed by the Transferee to, and used by, any agent or contractor of the Transferee to the same extent that they were used by the Teachers Group and its agents or contractors prior to the Effective Date for all purposes in connection with the Transferred Policies including, in particular, administration thereof and all matters relevant or incidental thereto, and no consent from the individual Policyholders in respect of such transfer or the use of Records shall be required.
- 5.8 To the extent that an authority has been given to Teachers or any Subsidiary in connection with a Transferred Policy by the Policyholder thereof or by any other relevant person pursuant to the Data Protection Act 1998 or otherwise, such authority shall, on and after the Effective Date, be deemed to have been given to the Transferee in respect of such Transferred Policy.

6. **PREMIUMS, MANDATES AND OTHER PAYMENTS**

- 6.1 All premiums attributable or referable to the Transferred Policies shall on and after the Effective Date be payable to the Transferee and shall on and with effect from the Effective Date be receivable and received by the Transferee, and shall, subject to paragraph 9.2 or 25.2 and save for the case of premiums in respect of Transferred Non-Profit Policies, be allocated to the TA Fund. For the avoidance of doubt, any premiums attributable or referable to the Transferred Non-Profit Policies shall on and after the Effective Date be payable to the Transferee and shall on and with effect from the Effective Date be receivable and received by the Transferee but shall not be allocated to the TA Fund.
- 6.2 Any mandate or other instruction in force on the Effective Date (including 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 Teachers under or in respect of any of the Transferred Policies shall thereafter take effect as if it had provided for and authorised such payment to the Transferee.
- 6.3 Any mandate or other instruction in force on the Effective Date as to the manner of payment of any sum payable by Teachers under any of the Transferred Policies shall, on and from the Effective Date, continue in force as an effective authority to the Transferee.

## **PART C - FUND STRUCTURE**

### **7. PURPOSE OF ALLOCATIONS**

Any allocation of property or attribution of liabilities, and any re-allocation or re-attribution of the same, which is made under the terms of this Instrument for the purpose of the maintenance of the TA Fund 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 the Transferee to meet the liabilities which it is obliged by law or regulation to meet.

### **8. ESTABLISHMENT OF THE TA FUND**

8.1 On and with effect from the Effective Date, the Transferee shall establish the TA Fund as a separate sub-fund within its insurance business.

8.2 The parties acknowledge and agree that:

(a) (save to the extent the Transferee, at its absolute discretion, decides in relation to any profit or surplus only) the TA Fund and any holder of a Transferred Policy shall not be entitled to share in any profits or losses of the Transferee or any sub-fund of the Transferee other than the TA Fund and shall have no entitlement to share in any surplus of the Transferee or any sub-fund of the Transferee other than the TA Fund; and

(b) no person or fund other than the TA Fund and any holder of a Transferred With-Profits Policy shall share in any profits or losses of the TA Fund or shall have any entitlement to share in any surplus of the TA Fund.

### **9. ALLOCATIONS AND TRANSFERS**

9.1 On the Effective Date, all of the Transferred Engagements shall be allocated to the TA Fund.

9.2 Immediately after the Effective Date, the following shall be transferred from the TA Fund to the Main Fund:

(a) the Transferred Non-Profit Policies;

(b) Transferred Assets with a value equal to the Anticipated Non-Profit Reserves along with any reinsurance attributable to the Transferred Non-Profit Policies;

(c) Transferred Liabilities attributable to the Transferred Non-Profit Policies or to any Transferred Asset falling within paragraph 9.2(b);

(d) the entire issued share capital of the Designated Subsidiaries; and

(e) the Goodwill.

9.3 Immediately after the Effective Date, the Contribution in cleared funds in cash shall be allocated to the TA Fund.

9.4 The Contribution to be allocated to the TA Fund immediately after the Effective Date shall be transferred to the TA Fund from the Main Fund and allocated between the share capital of the Designated Subsidiaries and Goodwill in the proportions set out in Part B of Schedule 3. The Transferee shall ensure that such sum is applied exclusively for the

benefit of the TA Fund and its Policyholders and shall not permit any other interest to arise, or any Encumbrance to be created, over the TA Fund in connection with the payment of such sum.

9.5 Notwithstanding paragraph 28:

- (a) to the extent that the Transferee is subject to corporation Tax on any chargeable gain arising upon an allocation made pursuant to this paragraph 9, such liability shall not be charged to the TA Fund;
- (b) to the extent that a capital loss arises for the Transferee upon an allocation made pursuant to this paragraph 9, the benefit of such capital loss shall not be passed on to the TA Fund; and
- (c) to the extent that any UK stamp duty or stamp duty reserve tax is chargeable in respect of an allocation made pursuant to this paragraph 9, such liability shall not be charged to the TA Fund.

10. **SUTM**

10.1 In the event of an SUTM Sale Failure occurring, the Transferee shall in good faith, and in consultation with the Transferee WPC, use reasonable endeavours to complete a SUTM Disposal on reasonable commercial terms. All benefits and proceeds as well as costs, expenses and other Losses attributable to SUTM and any SUTM Disposal will be credited or debited (as applicable) to the TA Fund in accordance with paragraph 22.

10.2 The Transferee agrees that in relation to any SUTM Disposal pursuant to paragraph 10.1 it will:

- (a) appoint an independent third party as financial adviser to manage the SUTM disposal;
- (b) adopt an auction process and approach no less than three potential buyers prior to any one buyer being selected; and
- (c) adopt a target sale price of £8,000,000 and use reasonable endeavours to achieve such price subject to taking into account any change in market conditions or adverse developments in SUTM or its business (including depreciation in the assets under management of SUTM) following the Effective Date.

10.3 Following completion of a SUTM Disposal, the Transferee shall in good faith, and in consultation with the Transferee WPC, use reasonable endeavours to promote the interests, and mitigate any loss, liability, cost or expense, of the TA Fund in relation to the SUTM Disposal as far as reasonably possible.

11. **ADJUSTMENT OF THE CONTRIBUTION AND NON-PROFIT RESERVES**

11.1 The Contribution and the Non-Profit Reserves will be calculated in accordance with this paragraph 11 and Schedule 3. The allocation of the Contribution between the share capital of the Designated Subsidiaries shall be adjusted to reflect the calculations made pursuant to this paragraph 11.

11.2 If the Effective Date NAV/PVFP is:

- (a) less than the Anticipated NAV/PVFP:
  - (i) the Contribution will be reduced by an amount equal to such shortfall; and
  - (ii) cash or assets with a value equal to such shortfall shall be paid from the TA Fund to the Main Fund, either in cleared funds in cash or comprising such assets as the Transferee WPC has unanimously approved, within five Business Days of the agreement of the Effective Date NAV/PVFP/Non-Profit Reserves Statement in accordance with Schedule 3; or
- (b) more than the Anticipated NAV/PVFP:
  - (i) the Contribution will be increased by an amount equal to such excess; and
  - (ii) the Transferee shall procure that an amount equal to such excess shall be paid into the TA Fund from the Main Fund, either in cleared funds in cash or comprising such assets as the Transferee WPC has unanimously approved, within five Business Days of the agreement of the Effective Date NAV/PVFP/Non-Profit Reserves Statement in accordance with Schedule 3; or
- (c) equal to the Anticipated NAV/PVFP, there will be no adjustment to the Contribution under this paragraph 11.2.

11.3 If the Effective Date Non-Profit Reserves are:

- (a) less than the Anticipated Non-Profit Reserves:
  - (i) the Non-Profit Reserves will be reduced by an amount equal to such shortfall; and
  - (ii) cash or assets with a value equal to such shortfall shall be paid from the Main Fund to the TA Fund, either in cleared funds in cash or comprising such assets as the Transferee WPC has unanimously approved, within five Business Days of the agreement of the Effective Date NAV/PVFP/Non-Profit Reserves Statement in accordance with Schedule 3; or
- (b) more than the Anticipated Non-Profit Reserves:
  - (i) the Non-Profit Reserves will be increased by an amount equal to such excess; and
  - (ii) the Transferee shall procure that an amount equal to such excess shall be paid from the TA Fund to the Main Fund, either in cleared funds in cash or comprising such assets as the Transferee WPC has unanimously approved, within five Business Days of the agreement of the Effective Date NAV/PVFP/Non-Profit Reserves Statement in accordance with Schedule 3; or
- (c) equal to the Anticipated Non-Profit Reserves, there will be no adjustment to the Non-Profit Reserves under this paragraph 11.3.



**12. LINKED FUNDS**

12.1 On and with effect from the Effective Date, the property and any associated liabilities comprised in each Linked Fund of Teachers shall be allocated to and become comprised in a corresponding Linked Fund established by the Transferee, comprising immediately following the Effective Date the same number and value of units as were comprised within the relevant Linked Fund of Teachers immediately prior to the Effective Date and having, initially, the same investment objectives immediately following the Effective Date as the relevant Linked Fund of Teachers immediately prior to the Effective Date.

12.2 On and with effect from the Effective Date:

(a) subject always to the provisions of this paragraph 12.2, in relation to any benefits under Transferred Policies which are linked to an Ex-Teachers Linked Fund, the Transferee shall become entitled to the same rights and powers and be subject to the same duties and liabilities as applied to Teachers in relation to the corresponding Linked Fund of Teachers 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 Teachers shall become linked to the corresponding Ex-Teachers Linked Fund(s) and the Transferee shall allocate to each such Transferred Policy the same number and classes of units in the corresponding Ex-Teachers Linked Fund(s) as the number and classes of units in the relevant Linked Fund(s) of Teachers which were allocated to the Transferred Policy immediately prior to the Effective Date.

12.3 No Linked Funds shall be established in the TA Fund at any time.

12.4 Subject to the requirements of FSMA, the Regulatory Handbook and the terms of the relevant Linked Policies, the Transferee 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 or to carry out any other action in relation to the Linked Funds which is permitted (or not restricted) by the Regulatory Handbook or the terms of the relevant Transferred Policies.

12.5 Where any Teachers Policyholder is affected by the application of paragraph 12.4, the following provisions shall apply:

(a) in the event that the Transferee intends pursuant to paragraph 12.4 to wind up any of the Linked Funds, it shall cancel the units in such Linked Fund allocated to the relevant Transferred Policy upon issuing to the relevant Teachers Policyholder, without charge, in substitution for the cancelled units, new units of an equal value in a different Linked Fund established within its insurance business. The substitute Linked Fund shall be a fund available at the time to holders of Linked Policies of the same product type as the Linked Policies held by the relevant Teachers Policyholder and which, in the opinion of the Transferee Board, provides reasonably equivalent investment exposure to the Linked Fund so wound up; and

- (b) where a Teachers Policyholder elects to switch from the Linked Fund to which his Linked Policy is linked into one or more other available Linked Fund(s):
  - (i) without prejudice to any entitlement for a Teachers Policyholder to effect such a switch under the terms of the Linked Policy, one such switch shall be permitted by the Transferee, even where such switch was not permitted under the terms of the Linked Policy, provided it is effected within 12 months after the relevant change referred to in paragraph 12.4 has occurred; and
  - (ii) any switching charge that would otherwise apply as a consequence of such switch effected under this paragraph 12.5(b)(ii) shall be waived in respect of the first (but not any subsequent) occasion when such charge would have applied,

12.6 Nothing contained in this paragraph 12 shall result in the level of charges applicable to any Transferred Policy being amended in any way.

### 13. **MEMBER PAYMENTS**

13.1 The TA Fund shall make a payment of £250 to each Qualifying Member in consideration of such member's loss of membership rights in Teachers subject to a maximum aggregate payment of £15,000,000 to be paid in total to all Qualifying Members. The Transferee shall use all reasonable endeavours to procure that such payment is made as soon as practicable after the Effective Date, and in any event within 30 days thereof. Any such payment may be made by cheque sent at the risk of the person to whom it is sent (and in the case of joint members any such cheque shall be made out in favour of them jointly but sent to the first named in the records of Teachers).

13.2 If there is any doubt as to whether or not a person qualifies for a Member Payment, the determination of the Teachers Board prior to the Effective Date or the Transferee WPC on and with effect from the Effective Date shall be final and binding in respect thereof.

13.3 Any Member Payments which have remained unclaimed for five years from the Effective Date shall be forfeited and shall be allocated by the Transferee to the TA Fund. In addition, the amount of any Member Payments which the Transferee WPC determines not to be payable for any reason shall be allocated to the TA Fund as soon as possible after such determination has been made.

13.4 No Member Payment payable to a Qualifying Member shall bear interest.

### 14. **SPECIAL BONUS**

14.1 On and with effect from the Effective Date, the Special Bonus shall be allocated by the TA Fund in accordance with Schedule 4.

14.2 The cost of the Special Bonus shall be allocated to and borne by the TA Fund.

14.3 If there is any doubt as to whether or not a Policy qualifies for the Special Bonus, the determination of the Teachers Board prior to the Effective Date or the Transferee WPC on and with effect from the Effective Date shall be final and binding in respect thereof.

**PART D - OPERATION OF THE TA FUND**

**15. MAINTENANCE OF THE TA FUND**

At all times after the Effective Date, subject to paragraph 24, the TA Fund shall be separately maintained and the Transferee shall procure that separate accounting records for the TA Fund shall at all times be maintained which are sufficient to enable the separate identification of the assets, liabilities, premiums, claims, investment income and investment gains and losses, both realised and unrealised, allocated to the TA Fund.

**16. NEW BUSINESS**

No new business shall be allocated to the TA Fund, including by way of reinsurance of liabilities to the TA Fund from another party or from another fund of the Transferee, other than:

- (a) premiums that any Policyholder is entitled to pay under the terms of any Transferred Policy, whether regular premiums or additional single premiums;
- (b) any Transferred Policies which have lapsed and are subsequently reinstated; and
- (c) such business as the Transferee Board having regard to Actuarial Advice and advice of the Transferee WPC, decides should be written in the TA Fund in order to avoid a failure to satisfy any right or reasonable expectations of any holder of a Policy allocated to the TA Fund (including, for the avoidance of doubt, any Policies written pursuant to paragraph 5.3 and any Policies issued on or after the Effective Date as a result of proposals for insurance received by or on behalf of Teachers before the Effective Date).

**17. FINANCIAL MANAGEMENT OF THE TA FUND**

17.1 The TA Fund shall be managed in accordance with applicable laws and regulatory requirements from time to time, this Instrument and the TA Fund PPFM. In the event of any inconsistency between this Instrument and the TA Fund PPFM, this Instrument shall prevail.

17.2 The TA Fund PPFM shall take effect on and with effect from the Effective Date.

17.3 The management of the Transferred With-Profits Policies immediately after the Effective Date shall be substantially consistent with their management immediately prior to the Effective Date. Without prejudice to the generality of the foregoing:

- (a) the value of the asset shares, accrued guaranteed bonus and sums assured for the Transferred With-Profits Policies established by the Transferee immediately after the Effective Date will (subject to the correction of any errors and omissions) be the same as their respective values immediately before the Effective Date; and
- (b) the investment and bonus policy, risk appetite and assumptions and methodologies for the calculation of asset shares and payouts applicable to the Transferred With-Profits Policies immediately after the Effective Date shall be the same as the investment and bonus policy, risk appetite and assumptions and methodologies for the calculation of asset shares and payouts applicable to the Transferred With-Profits Policies immediately prior to the Effective Date.

- 17.4 Transactions with or for the account of the TA Fund relating to:
- (a) the entry into or amendment of any contracts relating to any material services provided or to be provided to the TA Fund, including any investment management services; or
  - (b) any transfer, exchange or re-allocation of policies, property or liabilities:
    - (i) between the TA Fund and any other fund of the Transferee; or
    - (ii) between the TA Fund and any member of the Transferee Group,

shall be undertaken on terms which the Transferee Board, having regard to Actuarial Advice, reasonably considers to be arm's length terms. The Transferee Board shall consult with the Transferee WPC in relation to any such transactions which in the reasonable opinion of the Transferee Board are material. The assets of the TA Fund shall not be used to provide capital support for any business of the Transferee not allocated to the TA Fund except where this is required by law or regulation.

- 17.5 As a result of the Transfer, the management and operation of the Transferred Engagements will be the responsibility of the Transferee but the Transferee will inherit the processes and systems used by Teachers for the management of its business prior to the Effective Date. Accordingly, the Transferee shall not pay any amount in respect of any fine or penalty or any compensation and redress from the TA Fund arising from the management and operation of the Transferred Engagements on and after the Effective Date except to the extent that:

- (a) the fine, penalty, compensation or redress arises from appropriate use by the Transferee prior to the second anniversary of the Effective Date of the processes and systems used by Teachers for the management of its business prior to the Effective Date; or
- (b) the amount payable is a payment or transfer of liabilities made to correct an error and which has the effect of restoring a Policyholder, or former Policyholder, and the TA Fund to the position they would have been in if the error had not occurred.

- 17.6 The Transferee shall use all reasonable endeavours to mitigate any liability which may arise for the TA Fund including by defending any claim relating to the management of the Teachers' business prior to the Effective Date in such way as the Transferee Board reasonably considers to be appropriate. The Transferee Board shall notify the Transferee WPC as soon as reasonably possible of any claim which it reasonably considers is likely to result in a liability (or series of liabilities arising from the same or similar facts or circumstances) for the TA Fund in excess of £250,000 (including any fees, costs and expenses relating to such liability or liabilities) and shall consult with the Transferee WPC on the mitigation of such liability.

- 17.7 The Transferee Board shall seek the advice of the Transferee WPC prior to making any changes to the actuarial assumptions (excluding economic assumption changes), practices or methodologies used for the TA Fund which the Transferee Board reasonably considers is likely to result in a reduction in the surplus of the TA Fund available for distribution amongst the Transferred With-Profits Policies by £500,000 or more.

- 17.8 The Transferee shall consult with the Transferee WPC prior to exercising any rights under clause 31.8 of the SUTM Transfer Documents.

**18. PENSIONS**

- 18.1 Provided Teachers has, if the Transferee so requests, taken reasonable steps between the Signing Date and the Effective Date to address any concerns that the Transferee has identified as part of the due diligence that it undertook in relation to the Teachers Group Pension Scheme, the Transferee will, within two years of the Effective Date, make a proposal to the Pension Trustees and the Trustees of the LV Scheme that the Teachers Group Pension Scheme be merged with the LV Scheme, such merger to be effected by a transfer of the assets and liabilities of the Teachers Group Pension Scheme to the LV Scheme on a non-segregated basis.
- 18.2 The Transferee's proposal to the Pension Trustees shall be made in good faith, with comparisons of the relative funding positions of the two schemes being undertaken on the basis of the LV Scheme's then-current statement of funding principles and investment strategy and having consulted with the Teacher's Nominee.
- 18.3 If the Trustees of the LV Scheme and the Pension Trustees are in agreement in principle with the proposal, the Transferee will use its reasonable endeavours to procure that within four years of the Effective Date the proposal is implemented but nothing in this paragraph 18.3 shall mean the Transferee is required to:
- (a) make or procure the making of any additional or accelerated payments or contributions to the LV Scheme or the Teachers Group Pension Scheme; or
  - (b) take any step to alter the balance of power in the LV Scheme; or
  - (c) take any step to alter the funding principles or investment strategy of the LV Scheme; or
  - (d) give or procure that there is given to the Pension Trustees any indemnity other than an indemnity that is limited to the TA Fund.

**19. TRANSFEEE WPC**

- 19.1 The Transferee shall procure that, on and with effect from the Effective Date, an individual nominated by the Teachers Board shall be appointed to the Transferee WPC as the Teachers Nominee.
- 19.2 The Transferee WPC shall include one Teachers Nominee at all times (although a quorum of the Transferee WPC may not necessarily require one Teachers Nominee to attend) following the Effective Date until the cessation of the TA Fund in accordance with paragraph 24. The Teachers Nominee must at all times be an Independent Member of the Transferee WPC and may only be removed by the Transferee as a member of the Transferee WPC:
- (a) for gross misconduct;
  - (b) if so required by notice in writing to the Transferee from an Insurance Regulator or if prohibited by law from being a member of the Transferee WPC;
  - (c) if he is suffering from mental ill health or becomes a patient for any purpose of any statute relating to mental health; or
  - (d) if he becomes bankrupt or dies.

If the person appointed to be the Teachers Nominee ceases for any reason to be the Teachers Nominee (including as a result of ceasing to be an Independent Member of the Transferee WPC), the With-Profits Actuary for the TA Fund shall appoint an interim Teachers Nominee whilst a permanent replacement is sought and will then recommend a new Teachers Nominee having regard to advice from the Transferee WPC, and the Transferee Board shall approve such recommendation unless any of the factors referred to in paragraphs (a) to (d) arise or the person recommended would not be an Independent Member of the Transferee WPC.

19.3 Amended terms of reference for the Transferee WPC which reflect the provisions of this Instrument shall take effect on and with effect from the Effective Date.

**20. DISTRIBUTIONS OF SURPLUS FROM THE TA FUND**

20.1 The Transferee Board, having regard to Actuarial Advice and advice of the Transferee WPC and to the TA Fund PPFM and the established practices and methodology applied by Teachers in relation to the Teachers with-profits fund and the Transferred With-Profits Policies comprised therein, shall determine at least once in respect of each Financial Year of the Transferee:

- (a) the amount of surplus arising within the TA Fund;
- (b) the proportion of such surplus available for distribution amongst the Transferred With-Profits Policies and the proportion to be carried forward within the TA Fund as additional reserves or otherwise; and
- (c) the allocation of the surplus available for distribution and the form of the distribution (as bonus, augmentation of benefits or otherwise) amongst the Transferred With-Profits Policies.

20.2 100 per cent. of the surplus arising within the TA Fund and determined by the Transferee Board to be available for distribution pursuant to paragraph 20.1 shall be allocated amongst the Transferred With-Profits Policies in force at the relevant time.

**21. CHARGES AND EXPENSES**

The charges to be borne by the TA Fund annually (or on a pro rata basis for any part of a calendar year) in respect of the administration of Policies allocated to or written in the TA Fund and in respect of the investment management of the assets of the TA Fund (the "**Services**") shall be determined in accordance with Schedule 1 until the expiry of all such Policies or, if earlier, the cessation of the TA Fund in accordance with paragraph 24.

**22. DEBITS AND CREDITS**

22.1 Except as may be required or permitted under this Instrument (including this paragraph 22), no amount shall be transferred from or debited to the TA Fund. For the avoidance of doubt, no loss, cost, expense, liability of claim shall be allocated to the TA Fund in relation to integrating the operations and governance of the Teachers Group Business with the business of the Transferee.

- 22.2 On and with effect from the Effective Date and subject to the other provisions of this Instrument, the Transferee shall be entitled to transfer from or debit or charge to the TA Fund all Losses arising from the Transferred Liabilities including:
- (a) all liabilities allocated or transferred to the TA Fund in accordance with paragraph 9;
  - (b) all amounts payable in respect of Policies allocated to the TA Fund arising by reason of surrender, death, maturity or other event giving rise to a claim (including amounts payable because of any guarantee or option in any such Policy);
  - (c) any Losses (including declines in the value of investments) arising from the assets or business allocated to the TA Fund including in respect of the acquisition, holding (including refurbishment, running costs, maintenance and upgrade costs) or disposal (including transaction costs) of any assets comprised in the TA Fund;
  - (d) all premiums and other amounts paid by the Transferee under or in respect of reinsurance arrangements or hedging arrangements in respect of liabilities allocated to the TA Fund which are reassured or hedged;
  - (e) any payments of principal and interest in respect of any liabilities of the TA Fund in respect of borrowed monies;
  - (f) any amount to be transferred from the TA Fund as a result of the adjustment of the Contribution or the Non-Profit Reserves pursuant to paragraph 11;
  - (g) the making of the Member Payments or Special Bonus pursuant to paragraphs 13 and 14 respectively and any Losses incurred in relation to the administration or payment of the Member Payments or Special Bonus;
  - (h) all fees, charges and expenses attributable to the TA Fund in respect of administration and investment management in accordance with paragraph 21;
  - (i) any Losses incurred by the Transferee in respect of paragraph 24;
  - (j) any amount to be debited to the TA Fund pursuant to paragraph 27.2;
  - (k) all amounts in respect of Taxation which are debited or charged to the TA Fund in accordance with paragraph 28;
  - (l) any amounts chargeable to the TA Fund under paragraph 31;
  - (m) an equitable proportion of any levy imposed by a regulatory or governmental body;
  - (n) all and any Pension Liabilities and Early Retirement Obligations;
  - (o) any costs and expenses (including the costs of any external advice) of the Teachers Nominee and an equitable proportion of any external advice costs incurred in respect of the TA Fund (subject to prior consultation with the Transferee WPC where such costs are likely to exceed £25,000);
  - (p) all Losses arising in respect of the Transferred Engagements prior to the Effective Date including:

- (i) all fees, charges and expenses attributable to the TA Fund in respect of administration and investment management; and
- (ii) any Tax of Teachers;
- (q) fines, penalties, compensation or redress whenever imposed, on Teachers or any Subsidiary or any member of the Transferee Group, by any regulator prior to the Effective Date;
- (r) claims for negligence, breach of contract or fraud by Teachers or any Subsidiary or any of their employees, agents or subcontractors prior to the Effective Date;
- (s) amounts arising from an ombudsman's decision, whether made before or after the Effective Date, to the extent such amounts arise out of acts, omissions or any other matters arising from the period prior to the Effective Date;
- (t) any Losses arising in respect of any litigation, investigation, claim, demand or dispute of any kind (including employment disputes, save where such dispute arises as a result of any act or omission by the Transferee or any member of the Transferee Group or by Teachers or any member of the Teachers Group acting on instructions from the Transferee) which relate to, or arise from, acts, omissions or events occurring during the period prior to the Effective Date;
- (u) any Mis-selling Liability;
- (v) notwithstanding paragraph 28, any Losses arising as a result of SUTM, its business or the SUTM Disposal;
- (w) any Losses arising in respect of a breach of any Teachers Warranties (provided that any claim that such Loss has arisen shall be notified in writing to the Transferee With-Profits Committee on or prior to the second anniversary of the Effective Date setting out reasonable details of the breach and of the Loss that has arisen);
- (x) any Losses arising in respect of a breach of any Pre-Completion Undertakings (provided that any claim that such Loss has arisen shall be notified in writing to the Transferee With-Profits Committee on or prior to the second anniversary of the Effective Date setting out reasonable details of the breach and of the Loss that has arisen);
- (y) save where such costs are dealt with under paragraph 17.5, any Losses in respect of the investigation and remediation in respect of any material systemic issues that existed prior to the Effective Date that affect any Teachers policyholder (including, without limitation, mis-selling, unit-pricing errors, issue of incorrect bonus notices, product defects, incorrect payment or calculation of benefits or other failure to comply with Policy terms and conditions);
- (z) any Losses arising from the rectification of a material defect to any information technology system which formed part of the Transferred Assets where such material defect existed prior to the Effective Time and where the cost of correction of remedying such a defect is material;
- (aa) an allocation on a fair and equitable basis of the marginal cost of implementing major legislative or regulatory changes that are mandatory and reasonably



attributable to the TA Fund (other than Tax changes to which paragraph 28.4 of this Instrument shall apply) save for any Internal Model Costs;

- (bb) any reasonable expenses incurred in the preparation and circulation of any communications to Teachers Policyholders that are outside the ordinary and usual course of business;
- (cc) all and any Executive Payments, Redundancy Payments, TUPE Liability and any Pre Transfer Employment Liabilities;
- (dd) any amount which would have been payable by Teachers (were it not dissolved following the Transfer pursuant to section 86(5)(b) of the Act) to any member of the Teachers Board, any other officer of Teachers or any employee of Teachers pursuant to any indemnity contained in the Teachers Rules or otherwise, in respect of any fact, matter or circumstance arising from or connected with the period prior to the Effective Date;
- (ee) any part of the above costs, expenses, fees, charges and other Losses which represents irrecoverable VAT; and
- (ff) any other amounts which are:
  - (i) required by this Instrument or the Transfer Agreement to be allocated to the TA Fund; or
  - (ii) properly to be debited from, or properly charged to, the TA Fund.

The amounts to be debited to the TA Fund pursuant to this paragraph 22.2 shall be determined by the Transferee Board (acting reasonably) having regard to Actuarial Advice.

In relation to any debit or charge to the TA Fund, (i) following such debit or charge to the TA Fund being allocated to the TA Fund, the Transferee WPC may review and consult the Transferee Board on any such debit or charge and (ii) in any event, the Transferee Board shall consult with the Transferee WPC in relation to any proposed debit or charge (or series of debits or charges arising from the same or similar facts or circumstances) to the TA Fund which is or is likely to be more than £250,000 (including any fees, costs and expenses relating to such debit or charge or series of debits or charges).

22.3 For the avoidance of doubt, no cost, expense, liability or other amount shall be allocated to the TA Fund in respect of the Transferee WPC or the Transferee With-Profit Actuary other than the costs and expenses referred to in paragraph 22.2(o), as such cost, expense, liability and other amount is taken into account in the charges and expenses referred to in Schedule 1.

22.4 On and with effect from the Effective Date, there shall be credited to the TA Fund each of the following:

- (a) all assets allocated or transferred to the TA Fund in accordance with paragraph 9;
- (b) all premiums and other amounts received by the Transferee in respect of Policies allocated to the TA Fund;
- (c) any amount to be transferred to the TA Fund as a result of the adjustment of the Contribution or the Non-Profit Reserves pursuant to paragraph 11;

- (d) all amounts payable to the TA Fund in respect of new business written in the TA Fund in accordance with paragraph 16;
- (e) all amounts received under reinsurance and hedging arrangements made in respect of liabilities of the TA Fund which are reinsured;
- (f) all amounts attributable to the TA Fund in respect of the acquisition or disposal of any assets for the TA Fund;
- (g) all investment gains, earnings, income and profits arising from the assets or business allocated to the TA Fund;
- (h) any amount to be credited to the TA Fund pursuant to paragraph 27.2;
- (i) all amounts in respect of Taxation which are credited to the TA Fund pursuant to paragraph 28;
- (j) all assets and other amounts to the extent attributable to the management of the Transferred Engagements prior to the Effective Date including:
  - (i) all payments due from counterparties including amounts payable under reinsurance arrangements and rebates on commission payable to intermediaries or other third parties in respect of the sale of Policies; and
  - (ii) any Tax assets of Teachers and any repayment of Tax relating to accounting periods ending on or prior to the Effective Date; and
- (k) any other amounts which are:
  - (i) required by this Instrument or the Transfer Agreement to be credited to or received by the TA Fund; or
  - (ii) determined by the Transferee Board, having regard to Actuarial Advice and advice of the Transferee WPC, to be properly attributable to or properly received by the TA Fund.

**23. SERVICE STANDARDS**

- 23.1 Subject to paragraph 23.2, the Transferee shall ensure that, on and with effect from the Effective Date, the service standards for the administration and investment management services provided by any member of the Transferee Group to holders of Policies allocated to the TA Fund are no less favourable than the service standards for equivalent business of any Transferee Group Company.
- 23.2 To the extent that services are provided to the holders of Policies allocated to the TA Fund under administration and investment management services by any person who is not a member of the Transferee Group, the Transferee shall use reasonable endeavours to ensure that the service standards provided are consistent with the terms of the relevant agreement or agreements.

**24. MERGER OF THE TA FUND**

- 24.1 At any time from the eleventh anniversary of the Effective Date:
- (a) the Transferee may; and

- (b) if the liabilities calculated in accordance with all applicable regulatory requirements (net of reinsurance) relating to the Transferred With-Profits Policies fall below £20 million, the Transferee shall,

transfer the Policies, assets and liabilities allocated to the TA Fund to the Main Fund such that the assets of the TA Fund, including any inherited estate, will continue to be available exclusively to the Transferred With-Profits Policies for distribution and otherwise on such terms as the Transferee Board considers will not result in a material adverse effect on the Transferred With-Profits Policyholders (a "**Transfer Proposal**"). On the transfer taking effect, the Transferee may cease to maintain the TA Fund as a separate sub-fund in accordance with the terms of this Instrument.

24.2 Any Transfer Proposal made pursuant to paragraph 24.1 shall be subject to the following:

- (a) the Insurance Regulators having been notified of the proposal at least 90 days prior to its implementation and not having raised any objection or query which has not been withdrawn; and
- (b) the Transferee With-Profits Actuary and the Transferee WPC concluding that, in their opinion, the proposal will not have a material adverse effect on the reasonable expectations of the holders of the Transferred With-Profits Policies.

Any proposal must be implemented within three months of the end of the period during which the Regulators may raise any objection or query. The costs and expenses of any Transfer Proposal shall be allocated to the TA Fund.

24.3 Following the cessation of the TA Fund:

- (a) the requirements of paragraph 19 shall cease to apply in respect of the Transferee WPC;
- (b) the requirements of paragraph 26 shall cease to apply;
- (c) the provisions of paragraph 21 and Schedule 1 shall cease to apply to the Transferred With-Profits Policies; and
- (d) all references in this Instrument to the TA Fund shall be disregarded.

## 25. REINSURANCE ARRANGEMENTS

25.1 No liabilities shall be reinsured to the TA Fund from any other fund within the Transferee or any other person.

25.2 The Transferee shall be entitled:

- (a) to procure that the TA Fund shall reinsure (whether with another member of the Transferee Group or any other person) obligations under any Policy which is written in or allocated to the TA Fund;
- (b) to establish an arrangement equivalent to reinsurance between the TA Fund and any other fund of the Transferee under which such other fund shall reinsure obligations under any Policy which is written in or allocated to the TA Fund; and
- (c) to amend or terminate any such reinsurance or arrangement equivalent to reinsurance,

in each case on such terms as the Transferee Board shall reasonably determine to be arm's length commercial terms, having regard to Actuarial Advice and advice of the Transferee WPC.

**26. CERTIFICATION AND WITH-PROFITS ACTUARY DUTIES**

26.1 The Transferee Board shall provide the Transferee WPC with the Board Certificate (as soon as reasonably possible after the end of the Financial Year to which that Board Certificate relates but in any event prior to the submission of the Regulatory Returns relating to that Financial Year to the Insurance Regulators), setting out whether, in the opinion of the Transferee Board, having regard to Actuarial Advice and advice of the Transferee WPC, the provisions of the Instrument have been complied with since the date of the last Board Certificate or, in the case of the first Board Certificate, the Effective Date (and, if not, detailing the respects in which such provisions have not been complied with).

26.2 The With-Profits Actuary for the TA Fund shall, in addition to his statutory duties under FSMA or the Regulatory Handbook:

- (a) provide the Transferee Board and the Transferee WPC with the WPA Certificate (as soon as reasonably possible after the end of the Financial Year to which that WPA Certificate relates but in any event prior to the submission of the Regulatory Returns relating to that Financial Year to the Insurance Regulators), setting out whether, in his opinion the provisions of this Instrument relating to actuarial matters and any other matters in respect of which consultation with or Actuarial Advice is required pursuant to the Instrument have been complied with since the date of the last WPA Certificate or, in the case of the first WPA Certificate, the Effective Date (and, if not, detailing the respects in which such provisions have not been complied with); and
- (b) inform the Transferee Board and the Transferee WPC if at any time he is of the opinion that the TA Fund is being operated in such a manner that he will be unable to provide the confirmations set out in paragraph 26.2(a).

26.3 The Transferee shall, if requested by the Insurance Regulators, provide copies of the Board Certificate and the WPA Certificate to the Insurance Regulators.

**27. MISCELLANEOUS PROVISIONS**

27.1 Nothing in this Instrument shall at any time prevent the Transferee from:

- (a) establishing and maintaining any new funds or any new Linked Fund, provided that no further funds shall be created within the TA Fund except to the extent required by applicable law and regulation or by the Insurance Regulators; or
- (b) writing in or reinsuring to any of its funds other than the TA Fund any new business, including new business reinsured from another of its funds.

27.2 If there is, for any reason, any delay (for which provision is not expressly made in this Instrument) in the allocation of any receipt, payment or other item to the TA Fund or any other fund of the Transferee in accordance with this Instrument, the Transferee Board, having regard to Actuarial Advice and advice (to the extent the Transferee Board reasonably considers that the adjustment is material) of the Transferee WPC, shall make such adjustment, including to allow for investment return earned during the period from (and excluding) the Effective Date to (and including) the date on which such adjustment is

made, between such funds as it reasonably considers appropriate in accordance with the principles underlying this Instrument to take account of such delay.

**PART E – TAXATION**

**28. TAXATION OF THE TA FUND**

- 28.1 Subject to paragraph 9.5 and any adjustment required under paragraphs 22.2(p) and 22.4(j), Taxation attributable to the TA Fund shall be calculated, so far as is practicable, on the basis that the TA Fund is a separate friendly society carrying out no other Long-Term Insurance Business than that allocated to the TA Fund, and the amount so calculated shall be charged or credited to the TA Fund.
- 28.2 For the purposes of the calculation referred to in paragraph 28.1:
- (a) no charge shall be made to the TA Fund in respect of any Taxation which becomes due and payable on or after the Effective Date as a result of the transfer of the Transferred Assets, the Transferred Liabilities and the Transferred Policies under this Instrument that would not have become so payable had this Instrument not been effected;
  - (b) all appropriate allowances, reliefs and rights to repayments which would be reasonably expected to be claimed or received by the TA Fund in such circumstances are deemed to have been successfully claimed and received;
  - (c) any agreements in relation to Taxation that have been previously reached between Teachers and any Tax Authority shall be taken into account; and
  - (d) the applicable expenses in determining the Taxation attributable to the TA Fund shall be the charges determined in accordance with Schedule 1 to this Instrument and any other Tax deductible expenses allocated to the TA Fund as at the Effective Date or debited or charged to the TA Fund on or at all times after the Effective Date in accordance with paragraph 22.2.
- 28.3 The TA Fund is not to be unreasonably disadvantaged by any settlement or agreement or resolution of enquiries with any Tax Authority that also extends to the affairs of the Transferee.
- 28.4 In the event that there is a material change to the basis upon which Taxation is charged to friendly societies in the United Kingdom, the Transferee may change the basis upon which Tax is attributable to the TA Fund, subject to prior notification to the Insurance Regulators, to the extent that the Transferee Board, having regard to Actuarial Advice and advice of the Transferee WPC, reasonably considers necessary to ensure that the effect of paragraph 28.1 continues to be, so far as possible, that intended as at the Effective Date.
- 28.5 Teachers and the Transferee acknowledge that the Designated Subsidiaries will apply to join the LV VAT Group with effect from the Effective Date.

**PART F - MISCELLANEOUS PROVISIONS**

**29. EFFECTIVE DATE**

29.1 Subject to paragraph 29.2, this Instrument shall become operative at the time and date specified by the FCA pursuant to section 86(4) of the 1992 Act, which shall be 00.01 BST on 1 June 2016 except where otherwise agreed by Teachers and the Transferee and confirmed by the PRA which in any event shall be no later than 30 June 2016.

29.2 This Instrument shall not become effective and any confirmation of the transfer given by the PRA under section 86(2)(e) of the 1992 Act shall not be valid unless:

(a) a scheme to transfer all Transferred Policies effected or carried out as part of the Long-Term Insurance Business carried on by Teachers in or from within Jersey to the Transferee has been approved by the Royal Court of Jersey; and

(b) a scheme to transfer all Transferred Policies held by Policyholders resident in Guernsey to the Transferee has been approved by the Royal Court of Guernsey,

or, in the event that either or both of the schemes referred to in paragraphs (a) and (b) above have not been approved, Teachers and the Transferee have entered into novation agreements before the Effective Date with all Policyholders to whom such scheme(s) applied which provide for the transfer of their Policies to the Transferee with effect from the Effective Date.

**30. MODIFICATION OR ADDITIONS**

30.1 Any modification of or addition to this Instrument prior to the confirmation of the Transfer by the PRA shall only be effective with the prior written consent of both Teachers and the Transferee.

30.2 Subject to paragraph 30.4, at any time after the confirmation of the Transfer by the PRA, the Transferee shall be at liberty to apply to the Insurance Regulators for consent to amend its terms, provided that in any such case:

(a) such application shall be accompanied by a certificate from an independent actuary to the effect that in his opinion the proposed amendment will not have a material adverse effect on the reasonable expectations of the holders of Transferred Policies; and

(b) the Transferee WPC shall have consented to such application (such consent not to be unreasonably withheld or delayed).

30.3 If such consent is granted, the Transferee may amend the terms of this Instrument in accordance with such consent.

30.4 The consent or confirmation of the Insurance Regulators shall not be required in relation to:

(a) minor amendments to the terms of this Instrument and amendments necessary to correct an error or omission in the Instrument, provided that the Insurance Regulators have been notified of the same by the Transferee and have not raised any objection or query which has not been withdrawn within 45 days of such notification and the Transferee Board has received Actuarial Advice in relation to the amendments;

- (b) amendments to the provisions of this Instrument which are reasonably considered by the Transferee Board to be necessary to ensure the provisions of this Instrument operate in the intended manner in circumstances where the provision to which the proposed variation applies will be materially affected by a variation of FSMA or the Regulatory Handbook (in this paragraph a "**Regulatory Change**"), provided that:
  - (i) the Insurance Regulators have been notified of the proposed amendments by the Transferee and have not objected thereto within 90 days of such notification;
  - (ii) the Transferee WPC has consented to the proposed amendments (such consent not to be unreasonably withheld or delayed); and
  - (iii) an independent actuary has provided the Transferee with a report to the effect that in his opinion the implementation of the proposed amendments will not materially adversely affect the reasonable expectations of holders of Transferred Policies (which report has been provided to the Insurance Regulators and the Transferee WPC).

**31. COSTS AND EXPENSES**

- 31.1 Subject to the remainder of this paragraph 31, each party shall bear the costs and expenses incurred by it before the Effective Date in relation to the preparation and carrying into effect of the Instrument.
- 31.2 The Transferee shall bear 50 per cent. of:
  - (a) the fees, costs and expenses of the Independent Actuary including applicable VAT; and
  - (b) any Transfer Costs incurred prior to the Effective Date,

(and for the avoidance of doubt shall not allocate any such fees, costs or expenses to the TA Fund). The other 50 per cent. of such fees, costs and expenses including applicable VAT shall be borne by Teachers or the TA Fund.
- 31.3 If any costs or expenses referred to in paragraphs 31.1 or 31.2 are incurred before the Effective Date but are unpaid as at the Effective Date:
  - (a) insofar as they are incurred by Teachers (and save insofar as required by clause 31.2 to be borne by the Transferee), they shall be paid when due by the Transferee and borne by the TA Fund; and
  - (b) insofar as they are incurred by the Transferee or required by clause 31.2 to be borne by the Transferee, they shall be paid when due by the Transferee from funds other than the TA Fund.
- 31.4 Notwithstanding the remainder of this paragraph 31, the Transferee shall bear (without allocating or making any charge or recharge to the TA Fund) the full amount of:
  - (a) any Transfer Costs incurred on or after the Effective Date; and
  - (b) any loss, cost, expense, liability and claim incurred whether before or after the Effective Date in relation to integrating the operations and governance of the Transferred Engagements with the business of the Transferee.



32. **INCONSISTENCY WITH LAW AND REGULATION**

In the event of any inconsistency between the provisions of this Instrument and applicable laws and regulatory requirements from time to time, applicable laws and regulatory requirements shall prevail.

33. **GOVERNING LAW**

This Instrument shall be governed by and construed in accordance with English law and each of the parties hereby submits to the exclusive jurisdiction of the English Courts.

**AS WITNESS** the hands of the duly authorised representatives of the parties the day and year first above written.

## SCHEDULE 1

### EXPENSES AND CHARGES

Amounts charged in respect of the Services provided (or procured) by the Transferee to the TA Fund shall comprise the Administration Fees and Investment Management Fees subject to any adjustments required under the Waiver.

#### Part 1: Administration Fees

"Administration Fees" shall comprise:

- (a) for the duration of the First Year, the Actual Monthly Costs subject to the Aggregate Cap;
- (b) for the duration of the Initial Period, the Aggregate Calendar Monthly Per Policy Charge; and
- (c) for the period following the Initial Period, the actual costs and expenses (together with any part thereof which represents irrecoverable VAT) incurred by the Transferee in providing the administration services to the TA Fund subject to appropriate consultation with the WPC at the relevant time.

During the First Year, on each Payment Date in respect of each calendar month, the Transferee shall charge the TA Fund the Actual Monthly Costs subject to the Aggregate Cap.

During the Initial Period, on each Payment Date in respect of each calendar month, the Transferee shall charge the TA Fund the Aggregate Calendar Monthly Per Policy Charge for that calendar month.

#### Part 2: Investment Management Fees

"Investment Management Fees" shall comprise:

- (a) for the duration of the BlackRock IMA, the fees in respect of the TA Fund (together with any part thereof which represents irrecoverable VAT) payable under the BlackRock IMA as in force immediately prior to the Effective Date; or
- (b) the fees (together with any part thereof which represents irrecoverable VAT) payable for the asset management services in respect of the TA Fund under any successor arrangements to the BlackRock IMA.

### DEFINITIONS

"Actual Monthly Costs" means the actual costs and expenses fees (together with any part thereof which represents irrecoverable VAT) incurred by the Transferee in providing the administration services to the TA Fund in the calendar month but subject to a maximum charge over the First Year of the Aggregate Cap;

"Aggregate Calendar Monthly Per Policy Charge" means in respect of each calendar month, a sum calculated by multiplying the actual number of In Force Policies as at the end of that calendar month by the relevant Per Policy Rate divided by twelve;

"Aggregate Cap" means the total aggregate maintenance expenses (excluding Investment Management Fees) incurred by Teachers in the calendar year 2013 in respect of its With-Profits

Policies then in-force (being £1,646,000) increased by the change in the RPI Index from 31 December 2013 to the Effective Date plus 1% per annum;

**"BlackRock IMA"** means the investment management agreement dated 7 August 2012 and made between Teachers and BlackRock Investment Management (UK) Limited, as amended from time to time;

**"Calculation Date"** means in respect of a calendar month, five Business Day after the date on which the relevant RPI Index information becomes available;

**"First Year"** means the period from the Effective Date until the first anniversary of the Effective Date;

**"Initial Period"** means the period from the first year anniversary of the Effective Date to eleventh anniversary of the Effective Date;

**"In Force Policy"** means each Transferred With-Profits Policy allocated to the TA Fund in accordance with the terms of this Instrument;

**"Payment Date"** means in respect of a calendar month, the fifth Business Day following the Calculation Date;

**"Per Policy Rate"** shall be calculated by applying the following formula:

$$35 * (1 + A + B)^{(C / 12)}$$

where:

A equals the average RPI rate per annum experienced between the date of the Transfer Agreement and the month prior to the Calculation Date, being  $(D / E)^{(12 / C)} - 1$ ;

B equals 1%;

C equals the number of completion months between the date of the Transfer Agreement and Calculation Date;

D equals the published RPI Index in respect of the month prior to the Calculation Date; and

E equals the published RPI Index as at the date of the Transfer Agreement; and

**"RPI Index"** means the retail price index published by the Office for National Statistics from time to time or such other index as may replace the retail price index from time to time.

## SCHEDULE 2

### DEFINITION OF QUALIFYING MEMBER

#### 1. Definitions

The following definitions shall apply in the determination of Qualifying Members:

**"Involuntary Act"** means the maturity of a policy or other termination of a policy other than by a voluntary act of the policyholder, and for the avoidance of doubt shall not include a surrender of a policy;

**"Qualifying Member"** means an Existing Member or a New Member;

**"Existing Member"** means a Teachers Member either as at the Signing Date or who becomes a Teachers Member as a result of an application for a policy received on or prior to the Signing Date who continues to be a Teachers Member until either:

- (a) the Effective Date; or
- (b) he ceases to be a Teachers Member as a result of an Involuntary Act,

and, for the avoidance of doubt, shall include a Teachers Member either as at the Signing Date or who becomes a Teachers Member as a result of an application for a policy received on or prior to the Signing Date for whom Teachers receives an application for a new with-profits policy which is similar to the relevant existing policy on or before 18 January 2015 following his receipt of a mailing from Teachers despatched on or prior to the Signing Date explaining that, in order to continue to be a Teachers Member, he has 90 days from the maturity of an existing policy issued by Teachers to take out a new policy with Teachers;

**"New Member"** means a person who is not a Teachers Member as at the Signing Date but who (subject to clause 5.5 of the Transfer Agreement) becomes a Teachers Member as a result of a with-profits policy issued pursuant to an application received by Teachers on or before 18 January 2015 in connection with the guaranteed savings plan promotion undertaken by or on behalf of Teachers over the Christmas and New Year period 2014/2015 and who continues to be a Teachers Member until either:

- (a) the Effective Date; or
- (b) he ceases to be a Teachers Member as a result of an Involuntary Act.

- 2. In the event that there is any doubt as to whether the termination of a policy arises from an Involuntary Act, the determination of the Teachers Nominee will be conclusive.

### SCHEDULE 3

#### CALCULATION OF THE NAV/PVFP AND THE NON-PROFIT RESERVES

##### Part A

###### Process for the calculation of the NAV/PVFP and the Non-Profit Reserves

1. The Transferee shall procure that the Effective Date NAV/PVFP/Non-Profit Reserves Statement shall be prepared in accordance with the provisions of this Schedule 3.
2. The Effective Date NAV/PVFP/Non-Profit Reserves Statement shall be delivered to David Furniss by the Transferee as soon as is reasonably practicable and, in any event, not later than 90 Business Days after the Effective Date.
3. David Furniss shall have up to 30 Business Days from the presentation to him of the Effective Date NAV/PVFP/Non-Profit Reserves Statement (provided that this includes or is accompanied by sufficient detail to enable him to reasonably form an opinion as to whether or not he disagrees with the Effective Date NAV/PVFP/Non-Profit Reserves Statement or any item therein) to give notice to the Transferee that he disagrees with the Effective Date NAV/PVFP/Non-Profit Reserves Statement or any item therein, stating the reasons for the disagreement in reasonable detail including each disputed item, the amount in dispute and the basis for such dispute (the "**Disagreement Notice**"). David Furniss shall consult with the Teachers Nominee and may take such advice and consult such other persons as he considers appropriate in connection with the calculation of the Effective Date NAV/PVFP/Non-Profit Reserves under this Schedule 3.
4. If David Furniss has not responded in accordance with, and within the period stipulated in, the above paragraph 3, the Effective Date NAV/PVFP/Non-Profit Reserves Statement shall (in the absence of fraud or manifest error) be deemed to be agreed and accordingly final and binding for the purposes of paragraph 11 and this Schedule 3.
5. In the event David Furniss gives a Disagreement Notice under paragraph 3, the Transferee and David Furniss shall attempt in good faith to reach agreement in respect thereof in consultation with the Transferee WPC within 20 Business Days of the Transferee receiving the Disagreement Notice. If the Effective Date NAV/PVFP/Non-Profit Reserves Statement, as amended by the matters set out in the Disagreement Notice, is agreed by the Transferee and David Furniss in writing, it shall (in the absence of fraud or manifest error) be final and binding for the purposes of paragraph 11 and this Schedule 3.

To the extent that the Transferee and David Furniss are unable to agree within the aforementioned 20 Business Day period, either the Transferee or David Furniss may refer the disputed matters to the Independent Actuary or, if the Independent Actuary is not available for any reason, to an actuary who shall be independent of both Teachers and the Transferee appointed by the President of the Institute and Faculty of Actuaries on the application of either the Transferee or David Furniss. The decision of the Independent Actuary shall (in the absence of fraud or manifest error) be final and binding for the purposes of paragraph 11 and this Schedule 3. The Independent Actuary may take such advice and consult such persons as he considers appropriate and David Furniss and the Transferee may make such representations to the Independent Actuary as they consider appropriate in relation to the disputed matters.

6. When David Furniss and the Transferee reach agreement on the Effective Date NAV/PVFP/Non-Profit Reserves Statement in accordance with the procedures set out in this Schedule 3, the Effective Date NAV/PVFP/Non-Profit Reserves Statement as so agreed shall (in the absence of fraud or manifest error) be final and binding.
7. The costs and expenses of the Transferee shall be borne by the Main Fund and the costs and expenses of David Furniss shall be borne by the TA Fund. The costs and expenses of the Independent Actuary or other actuary appointed to settle any dispute will be shared equally between the Main Fund and the TA Fund.
8. If for any reason David Furniss is not available to perform the role ascribed to him in this Schedule 3 (whether due to a conflict of interest or otherwise), his role shall be performed by the Teachers Nominee. No objection shall be made to the performance by David Furniss of his role under this Schedule 3 specifically as a result of any other role that it is agreed by Teachers and the Transferee prior to the Effective Date that David Furniss is to perform.

**Part B**

**Anticipated NAV/PVFP**

| <b>Item</b>                                    | <b>Valuation</b>      |
|--|-----------------------|
| NAV, split as follows:                         | £ 19.4 million        |
| ➤ NAV for Teachers Assurance Company Limited   | £ 9.4 million         |
| ➤ NAV for Teachers Financial Services Limited  | £ 0.8 million         |
| ➤ NAV for Teachers Property Limited            | £ 2.3 million         |
| ➤ NAV for Teachers Management Services Limited | £ 6.9 million         |
| ➤ Pension Asset                                | -                     |
| PVFP   | £ 10.8 million        |
| Transferee's Cost of Capital                   | £ (8.4 million)       |
| <b>Anticipated NAV/PVFP</b>                    | <b>£ 21.8 million</b> |

**Part C**

**Effective Date NAV/PVFP/Non-Profit Reserves Statement**

To: David Furniss

[ ] [2016]

Dear Mr Furniss

**Instrument of Transfer dated [·] [2016] between Liverpool Victoria Friendly Society Limited and Teachers Provident Society Limited for the transfer of engagements of the entire business of Teachers Provident Society Limited (the "Instrument")**

We refer to the Instrument. Terms defined in the Instrument have the same meaning in this Effective Date NAV/PVFP/Non-Profit Reserves Statement as defined in the Instrument.

The Effective Date NAV/PVFP is £[ ] million comprising:

| <b>Item</b>                                  | <b>Valuation</b> |
|--|------------------|
| NAV, split as follows:                       | £ (000)          |
| NAV for Teachers Assurance Company Limited   | £ (000)          |
| NAV for Teachers Financial Services Limited  | £ (000)          |
| NAV for Teachers Management Services Limited | £ (000)          |
| NAV for Teachers Property Limited            | £ (000)          |
| PVFP   | £ (000)          |
| Transferee's Cost of Capital                 | £ (000)          |
| Effective Date NAV/PVFP                      | £ (000)          |

The Effective Date Non-Profit Reserves are £[ ] million.

Yours faithfully

.....  
for and on behalf of the Transferee



## **Part D**

### **Accounting and Actuarial Policies**

#### **1. GENERAL**

- 1.1 The NAV/PVFP and the Non-Profit Reserves shall be determined in accordance with paragraphs 2 and 3 of this Part D.
- 1.2 The sole purpose of determining:
  - (a) the Effective Date NAV/PVFP is to determine the adjustment (if any) to be made to the Anticipated NAV/PVFP in accordance with paragraph 11; and
  - (b) the Effective Date Non-Profit Reserves is to determine the adjustment (if any) to be made to the Anticipated Non-Profit Reserves in accordance with paragraph 11.
- 1.3 The Effective Date NAV/PVFP/Non-Profit Reserves Statement shall be prepared on the basis that the TA Fund is a going concern and exclude any effects of the Transfer contemplated by this Instrument.

#### **2. SPECIFIC ACCOUNTING AND ACTUARIAL POLICIES**

- 2.1 The NAV will be initially calculated by the Transferee in accordance with the accounting principles, policies, procedures, practices and estimation techniques adopted in the Accounts, which shall be applied on a consistent basis.
- 2.2 The PVFP will be initially calculated by the Transferee in accordance with the actuarial principles, policies, procedures, methodologies, practices and estimation techniques adopted in the Towers Watson Report, which shall be applied on a consistent basis provided that:
  - (a) all demographic, economic and market based data will be updated as far as possible to the Effective Date;
  - (b) investment return to be assumed for the annuity business shall be based on the gross redemption yields on the actual portfolio of backing assets as at the Effective Date; and
  - (c) a discount rate of 7 per cent. will apply.

Towers Watson will be requested to confirm the assumptions used and the calculations performed by the Transferee are consistent with the Towers Watson Report. The calculations performed by the Transferee shall be amended to the extent that Towers Watson considers that they are not consistent with the Towers Watson Report. The Towers Watson fees for this validation work will be charged to the TA Fund.

- 2.3 The Transferee's Cost of Capital will be initially calculated by the Transferee in accordance with the actuarial principles, policies, procedures, methodologies, practices and estimation techniques adopted in the stress calibrations which the Transferee used for its 31 December 2013 Individual Capital Assessment calculations, being the calculations underlying the £9.6 million cost of capital which formed part of the Transferee's proposals for the transfer of the engagements of Teachers in the Transferee's proposal letter of 22 October 2014. The calculations shall be performed and applied on a consistent basis provided that:

- (a) all demographic, economic and market based data will be updated as far as possible to the Effective Date;
- (b) investment return to be assumed for the annuity business should be based on the gross redemption yields on the actual portfolio of backing assets as at the Effective Date;
- (c) a cost of capital of 7 per cent. will apply; and
- (d) the Operational Risk Undiversified Capital of £3.6 million in the Transferee's proposal letter of 22 October 2014 will be reduced in proportion to the number of Transferred Policies as at the Effective Date to the number as at 31 December 2013.

Ernst & Young will be requested to confirm the assumptions used and the calculations performed by the Transferee are consistent with the calculations underlying the £9.6 million cost of capital which formed part of the Transferee's proposals for the transfer of the engagements of Teachers in the Transferee's proposal letter of 22 October 2014. The calculations performed by the Transferee shall be amended to the extent that Ernst & Young considers that they are not consistent with the calculations underlying the £9.6 million cost of capital which formed part of the Transferee's proposals for the transfer of the engagements of Teachers. The Ernst & Young fees for this validation work will be charged to the TA Fund.

- 2.4 The Non-Profit Reserves will be initially calculated by the Transferee in accordance with the actuarial principles, policies, procedures, methodologies, practices and estimation techniques used by Teachers to determine its Pillar 1, Peak 1 mathematical reserves for the financial year ended 31 December 2015.
- 2.5 Notwithstanding paragraphs 1.2(e) and 1.2(f) of the Instrument, no account shall be taken of Solvency II and any associated changes in law and regulation for the purposes of any calculation made pursuant to this Schedule 3.

#### SCHEDULE 4

#### SPECIAL BONUS

1. In this Schedule, the following expressions bear the meanings respectively set opposite them:

**"Asset Share"** shall have the meaning given to that term in the TA Fund PPFM;

**"Claim Value"** means the amount of money which was paid out when the Policy matured, except in the case of a low-cost endowment policy, where it means the amount of money paid out in respect of the investment element of the Policy when the Policy matured (and not, for the avoidance of doubt, any additional amount paid out in respect of any term assurance element of the Policy); and

**"Maturity"** means the maturity of or death claim arising from a policy or other termination of a Policy other than by a voluntary act of the Policyholder, and for the avoidance of doubt shall not include a surrender of a Policy.

2. All With-Profits Policies in-force on the Effective Date, together with any With-Profits Policies which terminated between 18 December 2014 and the Effective Date (inclusive) as a result of a Maturity, will be credited with the Special Bonus.
3. Subject to paragraph 7, the amount of the Special Bonus will be calculated as follows:
  - (a) For With-Profits Policies that are in-force on the Effective Date, the Special Bonus will be equal to three per cent of the Policy's Asset Share multiplied by the number of years the Policy has been in issue (rounded up to the next year), subject to a maximum of 20 years.
  - (b) For With-Profits Policies that have terminated as a result of a Maturity other than a death claim between 18 December 2014 and the Effective Date, the Special Bonus will be equal to three per cent of the Policy's Claim Value multiplied by the number of years the Policy was in issue, subject to a maximum of 20 years.
  - (c) For With-Profits Policies that have terminated as a result of a death claim between 18 December 2014 and the Effective Date, the Special Bonus will be equal to three per cent of the Policy's Claim Value multiplied by the number of years the Policy was in issue (rounded up to the next year), subject to a maximum of 20 years.
4. For conventional With-Profits Policies that qualify for the Special Bonus and are in force at the Effective Date, the Special Bonus will be taken into account in determining the final bonus and accordingly will not form part of the policy's guaranteed benefits.
5. For unitised With-Profits Policies that qualify for the Special Bonus and are in force at the Effective Date, the Special Bonus will be added as additional units allocated to the Policy as at the Effective Date.
6. For any With-Profits Policies that qualify for the Special Bonus and are not in force at the Effective Date, the Special Bonus will be paid to the Policyholder as an additional payout under the Policy.
7. For the purposes of paragraph 3, the percentage of a Policy's Asset Share or Claim Value which is to be multiplied by the relevant number of years shall be three per cent unless

the Transferee Board consider, having regard to Actuarial Advice and the circumstances of the TA Fund at the date the Special Bonus is calculated, that using three per cent would have a material adverse effect on the security of the TA Fund, in which case the percentage shall be such percentage as may be proposed by the Transferee Board, having regard to Actuarial Advice, and approved by the Transferee WPC. For the avoidance of doubt, to the extent to which the distribution of a proposed Special Bonus were to result in the capital resources of the TA Fund as a percentage of its solvency capital requirement under Solvency II ("**Capital Cover Ratio**") falling to below 150 per cent then the percentage of a Policy's Asset Share or Claim Value which is multiplied by the relevant number of years shall be adjusted accordingly so as to ensure that a Capital Cover Ratio of 150 per cent is maintained following the distribution of the Special Bonus.

## SCHEDULE 5

### CONDUCT REQUIREMENTS

In relation to any TUPE Liability the Conduct Requirements are:

The Transferee will not transfer from, debit or charge the TA Fund any amount paid by the Transferee or a member of the Transferee Group in respect of a TUPE Liability that falls within sub paragraph (2) of the definition of TUPE Liability (amounts in excess of £750,000 in aggregate) unless:

(1) a Tribunal (or any higher appeal court) finds a complaint well founded under Regulation 15 of TUPE and orders compensation to be paid to such descriptions of affected employees as it specifies in its award; or

(2) a Tribunal (or any higher appeal court) finds a complaint well founded under Regulation 15 of TUPE but orders no compensation in which case only costs and expenses shall be TUPE Liabilities; or

(3) a Tribunal (or any higher appeal court) finds a complaint under Regulation 15 of TUPE is not well founded in which case only costs and expenses shall be TUPE Liabilities; or

(4) a complaint is presented to a Tribunal under Regulation 15 (or any higher appeal court) and the Transferee and the Teachers Nominee agree that such complaint should be settled before a hearing on liability;

and for the avoidance of doubt legal expenses shall be limited to reasonable legal expenses for these purposes and the Transferee shall contact the Teachers Nominee in respect of each claim presented to a Tribunal under Regulation 15 (or any higher appeal court) to discuss the issue of settlement.

In relation to an Additional Redundancy Payment under sub paragraph (3) of the definition of Redundancy Payment the Conduct Requirements are:

The Transferee will not transfer from, debit or charge the TA any Additional Redundancy Payment under sub paragraph (4) of the definition of Redundancy Payment unless

(1) a Tribunal (or any higher appeal court) finds a complaint of unfair dismissal well founded; or

(2) a Tribunal (or any higher appeal court) finds a complaint of unfair dismissal is not well founded in which case only costs and expenses shall be Additional Redundancy Payments; or

(3) a complaint is presented to a Tribunal (or any higher appeal court) of unfair dismissal and the Transferee and the Teachers Nominee agree that such complaint should be settled before a hearing on liability;

and for the avoidance of doubt legal expenses shall be limited to reasonable legal expenses for these purposes and the Transferee shall contact the Teachers Nominee in respect of each claim of unfair dismissal presented to a Tribunal to discuss the issue of settlement.

**Signed** )  
For and on behalf of )  
**TEACHERS PROVIDENT SOCIETY LIMITED** )

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**Signed** )  
For and on behalf of )  
**LIVERPOOL VICTORIA FRIENDLY SOCIETY LIMITED** )

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