

IN THE ROYAL COURT OF GUERNSEY
ORDINARY DIVISION

IN THE MATTER OF

NATIONAL PROVIDENT LIFE LIMITED

and

IN THE MATTER OF

PHOENIX LIFE ASSURANCE LIMITED

AND IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 44 OF THE INSURANCE BUSINESS (BAILIWICK OF GUERNSEY) LAW, 2002

LONG TERM INSURANCE BUSINESS

TRANSFER SCHEME

for the transfer of the entire long-term insurance business of National Provident Life Limited to
Phoenix Life Assurance Limited

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PART A - DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 In this Guernsey Scheme, unless the subject or context requires otherwise, words and expressions defined in the UK Scheme shall have the same meaning given to them in the UK Scheme and expressions used in the Guernsey Scheme which have meanings under the Insurance Business Law shall bear those meanings, in addition, the following words and expressions shall have the meanings set out below:

"Excluded Guernsey Policies" means:

- (a) Guernsey Policies under which any liability remains unsatisfied or outstanding at the Guernsey Transfer Date and which are not capable of being transferred pursuant to the Guernsey Scheme at the Transfer Date (excluding any Guernsey Policies which are capable of being, and are, transferred to PLAL under the UK Scheme on the Transfer Date or the Jersey Scheme on the Jersey Transfer Date) or to the extent that and for so long only as this Guernsey Scheme has not yet received the requisite approval of the Royal Court and become operative in accordance with its terms; and
- (b) any further Policy issued by NPLL pursuant to the exercise of any right or option under an Excluded Guernsey Policy;

"Insurance Business Law" means The Insurance Business (Bailiwick of Guernsey) Law, 2002;

"Guernsey" means the Bailiwick of Guernsey;

"Guernsey Effective Date" means [00:01 GMT on 1 January 2015], except where it relates to the transfer of (i) any asset falling within paragraph (b) of the definition of Transferred Guernsey Assets or (ii) any liability falling within paragraph (b) of the definition of Transferred Guernsey Liabilities, in which case the Guernsey Effective Date shall be the date on which that Transferred Guernsey Asset or Transferred Guernsey Liability came into the ownership of, or became attributable to, NPLL;

"Guernsey Order" means an order made by the Royal Court pursuant to section 44 of the Insurance Business Law sanctioning the Guernsey Scheme and any order (including any subsequent order) in relation to the Guernsey Scheme made by the Royal Court pursuant to the Insurance Business Law;

"Guernsey Policy" and "Guernsey Policyholder" have the meanings set out in the Insurance Business Law;

"Guernsey Scheme" means this scheme made pursuant to section 44 of the Insurance Business Law in its original form or with or subject to any modification, addition or condition which may be approved or imposed;

"Guernsey Transfer Date" means the time and date the Guernsey Scheme becomes operative;

"Long-Term Insurance Business" means the business of accepting risks by effecting or carrying out contracts of insurance of the descriptions set out in Schedule 1 of the Insurance Business Law;

"**NPLL**" means National Provident Life Limited, a company incorporated in England and Wales with registered number 3641947;

"**PLAL**" means Phoenix Life Assurance Limited, a company incorporated in England and Wales with registered number 1419, which was formerly known as Pearl Assurance Limited;

"**Regulator**" means the Guernsey Financial Services Commission (and any successor to such authority);

"**Residual Guernsey Assets**" means:

- (a) any property of NPLL attributable to the Transferred Guernsey Business (including any right, benefit or power of NPLL under any Transferred Guernsey Policy) in respect of which the Royal Court has declined to order the transfer to PLAL pursuant to section 44 of the Insurance Business Law at the Guernsey Transfer Date;
- (b) any other property of NPLL attributable to the Transferred Guernsey Business (including any right or benefit under a Transferred Guernsey Policy) where NPLL and PLAL agree prior to the Guernsey Transfer Date that its transfer should be delayed or should not be transferred at all;
- (c) any property of NPLL attributable to the Transferred Guernsey Business which is outside the jurisdiction of the Royal Court or in respect of which the transfer pursuant to an order of the Royal Court is not recognised by the laws of the jurisdiction in which the property is situated (excluding any such property which is capable of being transferred, and is transferred, to PLAL under the UK Scheme on the Transfer Date or the Jersey Scheme on the Jersey Transfer Date);
- (d) any property of NPLL attributable to the Transferred Guernsey Business which cannot be transferred to or vested in PLAL on the Guernsey Transfer Date for any other reason (excluding any such property which is capable of being transferred, and is transferred, to PLAL under the UK Scheme on the Transfer Date or the Jersey Scheme on the Jersey Transfer Date);
- (e) assets representing the CRR Amount attributable to the Transferred Guernsey Business; and
- (f) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, or any other property or rights earned or received from time to time after the Guernsey Transfer Date but prior to any relevant Subsequent Guernsey Transfer Date in respect of any such property referred to in paragraphs (a) to (e) of this definition;

"**Residual Guernsey Liability**" means any liability whatsoever of NPLL that is attributable to, or connected with, the Transferred Guernsey Business (other than any liability or obligation under an Excluded Guernsey Policy):

- (a) that is attributable to or connected with a Residual Guernsey Asset and arises at any time before the Subsequent Guernsey Transfer Date applicable to that Residual Guernsey Asset, including any liability to taxation; or
- (b) in respect of which the Royal Court has declined to order the transfer to PLAL pursuant to section 44 of the Insurance Business Law on the Guernsey Transfer Date; or

- (c) that cannot be transferred to or vested in PLAL for any other reason on the Guernsey Transfer Date (excluding any such liability which is capable of being transferred, and is transferred, to PLAL under the UK Scheme on the Transfer Date or the Jersey Scheme on the Jersey Transfer Date);

"Royal Court" means the Royal Court of Guernsey;

"Subsequent Guernsey Transfer Date" means, in relation to any Residual Guernsey Asset or Residual Guernsey Liability, the date (and each date) after the Guernsey Transfer Date on which such Residual Guernsey Asset or Residual Guernsey Liability is or is to be transferred to PLAL, namely:

- (a) in respect of any Residual Guernsey Asset falling within paragraph (a), (c) or (d) of the definition of Residual Guernsey Assets, and of any Residual Guernsey Liability which is attributable to or connected with that Residual Guernsey Asset or which falls within paragraph (b) or (c) of the definition of Residual Guernsey Liability, the date on which any impediment to its transfer shall have been removed or overcome;
- (b) in respect of any Residual Guernsey Asset falling within paragraph (b) or (f) of the definition of Residual Guernsey Assets and of any Residual Guernsey Liability which is attributable to or connected with that Residual Guernsey Asset, the date on which NPLL and PLAL agree the transfer should take effect; and
- (c) in respect of any assets representing the CRR Amount, the date on which, in the opinion of the NPLL Board, having obtained appropriate actuarial advice, such assets or part thereof are no longer required to be retained in NPLL in order for NPLL to be able to meet its Capital Resources Requirements;

"Transferred Guernsey Assets" means all and any:

- (a) Transferred Assets whatsoever and wheresoever situated comprised in or attributable to the Transferred Guernsey Business as at the Guernsey Effective Date; and
- (b) property belonging to NPLL at any time between the Guernsey Effective Date and the Guernsey Transfer Date which was not property of NPLL at [00:01 GMT on 1 January 2015] but which would have fallen within paragraph (a) of this definition of Transferred Guernsey Assets had it been property of NPLL at that time,

but excluding the Residual Guernsey Assets and any rights, benefits and powers under or relating to the Excluded Guernsey Policies or the Excluded Guernsey Policies Reassurance Arrangement;

"Transferred Guernsey Business" means the whole business, undertaking and associated activities of NPLL carried on at the Guernsey Transfer Date to the extent that the same comprises or forms part of the Guernsey Business, but excluding the Excluded Guernsey Policies;

"Transferred Guernsey Liabilities" means all and any:

- (a) Transferred Liabilities whatsoever and wheresoever situated comprised in or attributable to the Transferred Guernsey Business or arising in connection with or in relation to that business as at the Guernsey Effective Date; and
- (b) liabilities whatsoever of NPLL at any time between the Guernsey Effective Date and the Guernsey Transfer Date which were not liabilities of NPLL at [00:01 GMT on 1 January

2015] but which would have fallen within paragraph (a) of this definition of Transferred Guernsey Liabilities had they been liabilities of NPLL at that time,

but excluding the Residual Guernsey Liabilities and any liabilities under or relating to the Excluded Guernsey Policies or the Excluded Guernsey Policies Reassurance Arrangement;

"Transferred Guernsey Policies" means every Guernsey Policy written by NPLL:

- (a) under which any liability remains unsatisfied or outstanding at the Guernsey Effective Date and comprised in the Transferred Guernsey Business, including:
 - (i) Guernsey Policies written by NPLL which have lapsed on or before the Guernsey Effective Date and which are reinstated by PLAL after the Guernsey Transfer Date; and
 - (ii) all proposals received by or on behalf of NPLL before the Guernsey Effective Date which have not become Guernsey Policies in force by the Guernsey Effective Date but which subsequently become Guernsey Policies; and
- (b) at any time between the Guernsey Effective Date and the Guernsey Transfer Date which were not policies of NPLL at [00:01 GMT on 1 January 2015] but which would have fallen within paragraph (a) of this definition of Transferred Guernsey Policies had they been policies of NPLL at that time,

but excluding the Excluded Guernsey Policies;

"UK Scheme" means the insurance business transfer scheme pursuant to Part VII of FSMA for, amongst other things, the transfer of the entire long-term insurance business of NPLL to PLAL, a copy of which is contained in the Schedule, as it may be varied or amended from time to time in accordance with its terms; and

"United Kingdom" means the United Kingdom, as defined in Schedule 1 to the Interpretation Act 1978.

2. INTRODUCTION

- 2.1 PLAL and NPLL each carry on Long Term Insurance Business in the United Kingdom, in Guernsey and in or from within Jersey (amongst other places).
- 2.2 PLAL is a company incorporated in England and Wales with registered number 1419. The registered office of PLAL is at 1 Wythall Green Way, Wythall, Birmingham, B47 6WG. PLAL has a Part 4A permission under FSMA to carry on long term insurance business in the United Kingdom in classes I, II, III, IV, VI and VII set out in Part II of Schedule 1 to RAO. PLAL has carried on business in Guernsey as a "recognised insurer" and is not licensed under the Insurance Business Law.
- 2.3 NPLL is a company incorporated in England and Wales with registered number 1016269. The registered office of NPLL is at 1 Wythall Green Way, Wythall, Birmingham, B47 6WG. NPLL has a Part 4A permission under FSMA to carry on long term insurance business in the United Kingdom in classes I, III and IV set out in Part II of Schedule 1 to RAO. NPLL has carried on business in Guernsey as a "recognised insurer" and is not licensed under the Insurance Business Law.
- 2.4 It is proposed to transfer all of the Long Term Insurance Business of NPLL to PLAL. The purpose of the Guernsey Scheme is to effect the transfer to PLAL, subject to the terms of the Guernsey

Scheme, of all of the Guernsey Business and the assets and liabilities relating to such business, which would not otherwise transfer under the UK Scheme or the Jersey Scheme. Nothing in the Guernsey Scheme shall operate so as to prevent or conflict with any transfer provided for by the UK Scheme or the Jersey Scheme.

- 2.5 It is proposed that, pursuant to the Guernsey Order, the Transferred Guernsey Business shall be transferred to PLAL on the Guernsey Transfer Date but with effect from the Guernsey Effective Date on the same terms as the terms of the UK Scheme governing the transfer of the Transferred Business to PLAL and as if the Transferred Guernsey Business were part of the Transferred Business as defined in the UK Scheme.

3. **TRANSFER OF BUSINESS BY INCORPORATION OF THE UK SCHEME**

- 3.1 The terms of the UK Scheme shall apply to the Transferred Guernsey Business, Transferred Guernsey Assets and the Transferred Guernsey Liabilities in the same manner as they apply to the Transferred Assets and the Transferred Liabilities, and (save to the extent inconsistent with any of the provisions of the Guernsey Scheme) the terms of the UK Scheme (subject to the excluded paragraphs set out at Clause 3.2) shall be deemed to be part of this Guernsey Scheme as if reproduced herein *mutatis mutandis*. For this purpose, the following definitions of the UK Scheme shall be read and construed as follows:

- 3.1.1 Transferred Business shall be read as Transferred Guernsey Business;
- 3.1.2 Transferred Policies shall be read as Transferred Guernsey Policies;
- 3.1.3 Transferred Assets shall be read as Transferred Guernsey Assets;
- 3.1.4 Transferred Liabilities shall be read as Transferred Guernsey Liabilities;
- 3.1.5 Excluded Policies shall be read as Excluded Guernsey Policies;
- 3.1.6 Residual Assets shall be read as Residual Guernsey Assets;
- 3.1.7 Residual Liability shall be read as Residual Guernsey Liability;
- 3.1.8 Effective Date shall be read as Guernsey Effective Date;
- 3.1.9 Transfer Date shall be read as Guernsey Transfer Date;
- 3.1.10 Scheme shall be read as the Guernsey Scheme;
- 3.1.11 Subsequent Transfer Date shall be read as Subsequent Guernsey Transfer Date;
- 3.1.12 Court shall be read as the Royal Court;
- 3.1.13 Order shall be read as the Guernsey Order;
- 3.1.14 all references to the Data Protection Act 1998 shall be read as references to the equivalent provisions of the Data Protection (Bailiwick of Guernsey) Law, 2001;
- 3.1.15 Excluded Policies Reassurance Arrangement shall be read as Excluded Guernsey Policies Reassurance Arrangement; and

3.1.16 Policy and Policyholder shall be read as Guernsey Policy and Guernsey Policyholder.

3.2 Paragraphs 6.4, 14.2, 14.3 and 39 of the UK Scheme shall not be deemed to be part of this Guernsey Scheme.

4. **GOVERNING LAW**

The Guernsey Scheme and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the island of Guernsey.

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SCHEDULE: THE UK SCHEME

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