
Dated:

28th March

2023

- (1) **J&E DAVY UNLIMITED COMPANY**
 - (2) **DAVY PENSIONER TRUSTEES UNLIMITED COMPANY**
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DEFINITIVE TRUST DEED AND RULES

OF THE DAVY MASTER TRUST

THIS DEFINITIVE TRUST DEED is made the 28th day of March 2023

BETWEEN:

1. **J & E Davy Unlimited Company**, an unlimited company incorporated in Ireland under number 106680 with registered office at Davy House, 49 Dawson Street, Dublin, D02 PY05 (the "**Founder**"); and
2. **Davy Pensions Trustees Unlimited Company**, an unlimited company incorporated in Ireland under number 354399 with registered office at 49 Dawson Street, Dublin, D02 PY05 (the "**Trustee**").

WHEREAS:

- A. The Founder has determined to establish under irrevocable trusts to commence on and operate from 1 January 2023 a retirement benefits scheme as defined by Section 771 of the Taxes Act capable of being approved by the Revenue Commissioners under Section 772 of the Taxes Act and of being treated by them as an exempt approved scheme under Section 774 of the Taxes Act to be known as The Davy Master Trust (the "**Scheme**") for the purpose of providing relevant benefits (as defined in Section 770 of the Taxes Act) for certain employees of the Employers in accordance with the regulations set out in this Deed and the Rules scheduled hereto.
- B. The Scheme will be an occupational pension scheme as defined by Section 2 of the Pensions Act and will be regulated by and administered in accordance with the Pensions Act.
- C. The Founder has determined to appoint the Trustee as the first trustee of the Scheme and the Trustee has agreed so to act and to administer the Scheme in accordance with applicable law and the provisions of this Deed and the Rules scheduled hereto, in each case as may change from time to time.

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED AND DECLARED as follows:

1 INTRODUCTION

1.1 Definitions and Interpretation

The definitions and rules of construction contained in Schedule 1 (Interpretation) to this Deed apply throughout this Deed.

1.2 Establishment and Main Purpose

1.2.1 The Founder establishes the Scheme and constitutes the Fund under irrevocable trusts to commence on and operate from [1 November 2022] and to be administered in accordance with the Pensions Act and with this Deed and the Rules scheduled hereto.

1.2.2 The Founder appoints the Trustee to be the first and sole trustee of the Scheme and the assets of the Scheme will vest in the Trustee for the purposes and upon the trusts of the Scheme and shall be held by the Trustee upon the trusts and subject to the powers and provisions of the Scheme.

1.2.3 The main purpose of the Scheme is to provide Members or their Dependants or personal representatives, with relevant benefits (as defined in Section 770 of the Taxes Act) in respect of service as an employee.

1.3 Name of Scheme

The Scheme shall be known as The Davy Master Trust. The Founder may change the name of the Scheme at any time by reasonable notice in writing to the Trustee.

1.4 Constitution of the Fund

The moneys and other assets from time to time held by or on account of the Trustee shall constitute the Fund of the Scheme. The Fund shall be held by the Trustee on trust to apply the income and, if and so far as necessary, the capital thereof in or towards discharging the cost of providing benefits under the Rules.

1.5 Operation of the Fund

1.5.1 The Trustee may administer, present and disclose information on the Scheme as separate Plans, each relating to one or more Members, provided that, for the avoidance of doubt, no Plan will be deemed to be, nor treated as if it were, a small self-administered pension scheme.

1.5.2 Notwithstanding Clause 1.5.1, the Scheme shall consist of one Fund which shall include all assets relating to Members' Personal Accounts, the Reserve Accounts and any other assets held by the Trustee for the purposes of the Scheme.

1.5.3 The Scheme shall provide defined contribution benefits and wholly-insured death benefits only and is a defined contribution scheme for the purposes of the Pensions Act.

1.6 Rules

Schedule 2 to this Deed contains the General Rules which together with each Plan Schedule constitute the Rules of the Scheme.

1.7 Governing law

The trusts of the Scheme are established under the laws of Ireland. This Deed shall be governed by and construed in accordance with the laws of Ireland.

2 REVENUE COMMISSIONERS' APPROVAL, PENSIONS ACT AND FAMILY LAW ACTS

2.1 The Scheme is a retirement benefits scheme, as defined by Section 771 of the Taxes Act, capable of being approved by the Revenue Commissioners under Section 772 of the Taxes Act and of being treated by them as an exempt approved scheme under Section 774 of the Taxes Act. Notwithstanding any provision to the contrary in this Deed or the Rules, no benefit shall be provided under the Scheme which would exceed the maximum benefit permitted, or would otherwise conflict with requirements imposed, by the Revenue Commissioners from time to time as a condition of approval under the Taxes Act. Any benefit otherwise provided shall be reduced or varied as may be necessary to ensure that such maximum is not exceeded and that there is no conflict with such requirements. The Trustee shall comply at all times with any undertaking given to the Revenue Commissioners in order to obtain or retain approval.

2.2 This Deed and the Rules are subject to the Pensions Act and Family Law Acts and all other applicable legislation relating to the operation of an occupational pension scheme and shall take effect subject to any modification necessary to comply with such legislation. The duties of the Founder and the Employers, the Trustee, the Registered Administrator, the Auditor, the internal auditor and the risk manager shall be regulated by, and carried out in accordance with, the Pensions Act.

3 TRUSTEE

3.1 Appointment of Trustee

3.1.1 The Scheme shall at all times have a sole trustee that is a corporate body.

3.1.2 Upon the resignation or removal of the Trustee under Clause 3.2, the Founder shall, subject to Clause 3.3, have the power to appoint by deed a replacement corporate body as the sole trustee of the Scheme.

3.2 Resignation and removal of Trustee

- 3.2.1 A Trustee Director may resign from office as a Trustee Director in accordance with the provisions of the Trustee's Constitution in which case they shall do such other things and take such other action as the Founder may reasonably require to enable the appointment of a replacement director as a Trustee Director.
- 3.2.2 The Trustee may resign from office as trustee of the Scheme by giving three months' written notice to the Founder unless the Founder permits a shorter notice period in which case it shall do such other things and take such other action as the Founder may reasonably require to enable the appointment of a replacement corporate body as Trustee.
- 3.2.3 Subject to Clause 3.3, the Founder may by deed remove the Trustee.

3.3 Founder's Exercise of Power of Appointment and Removal

The Founder will exercise its power under Clause 3.1 and Clause 3.2 in a way which complies with any applicable legislation relating to the appointment of trustees applicable to the Scheme including any requirement to have independent or non-affiliated trustees or trustee directors and any requirements relating to the appointment of a chair of trustees. The Founder may also require the Trustee, or any of its Trustee Directors, to agree that their appointment shall be subject to (and remain compliant with) any such requirements.

3.4 Remuneration of Trustee Directors

Any Trustee Director may be paid such remuneration (if any) as may be agreed with the Founder. Such remuneration shall be paid or reimbursed by the Founder or in default of such payment shall be an expense of the Scheme for the purpose of Clause 4.5 (Expenses of the Scheme).

3.5 How the Trustee may act

A corporate body acting as sole Trustee shall act in accordance with its Constitution.

3.6 Power to delegate

The Trustee may delegate any of its powers (discretionary or otherwise) and duties to any one or more persons (whether or not the Trustee or a Trustee Director). The Trustee will decide the terms of any such delegation (including as to fees). The power to delegate includes the power to allow sub-delegation.

3.7 Conflicts of interest or duty

- 3.7.1 Any act or decision of the Trustee shall be valid even if a Trustee Director had an interest in or conflicting duty in relation to that act or decision, including for the avoidance of doubt where a Trustee Director failed to disclose information to any fellow Trustee Directors due to a conflicting duty of confidentiality owed to the Founder or an Employer or another company in the corporate group of the Founder or an Employer.
- 3.7.2 The Trustee shall adopt a policy or policies for the management of conflicts of interest which is compliant with the requirements of the Pensions Act, subject always to the proviso that in the event that there is a conflict between the terms of the policy and the provisions of this Clause 3.7, the latter shall prevail.

3.8 Trustee liability

- 3.8.1 Subject to the following paragraphs of this Clause and to Clause 3.10:
 - (a) the Trustee shall not be responsible, chargeable or liable in any manner whatsoever for or in respect of any loss of or any depreciation in or default upon any of the investments, shares, debentures, securities, stocks, policies or other property in or upon which the moneys and assets of the Fund or any part thereof may be invested nor for any delay which may occur from whatever cause in the investment of any moneys belonging thereto nor for the safety of any securities, documents of title or other investments relating to the Fund

deposited by the Trustee for safe custody nor for any act, omission or breach of trust nor for any act or omission of any committee, agent, staff, delegate or nominee of the Trustee or the Founder; and

- (b) the Trustee shall be indemnified by the Employers against all liabilities, losses, claims, damages, reasonable costs and expenses, fines and penalties incurred by the Trustee in the performance of its duties to manage and administer the Scheme and shall to the extent that the Employers fail to indemnify, be indemnified out of the Fund **PROVIDED THAT:**
 - (i) the Trustee shall not be entitled to an indemnity out of the Fund for any fine imposed as a penalty where the Trustee is convicted of an offence relating to the Scheme or for any liability which cannot be met from the Fund due to a restriction in legislation;
 - (ii) the Trustee shall not be entitled to an indemnity out of the Fund for any other liability which cannot be met from the Fund due to a restriction in legislation;
 - (iii) each Employer's liability under this Clause 3.8.1 shall be limited to liabilities, losses, claims, damages, reasonable costs and expenses, fines and penalties incurred by the Trustee in connection with the management and administration of a Plan relating to a Member who is an employee or former employee of the Employer and the Trustee's decision as to what Plan, Plans or part of a Plan of the Scheme a particular set of liabilities relate to shall be final.

3.8.2 This Clause 3.8 does not apply to any liability arising out of the Trustee's wilful default or dishonest or intentional breach of trust committed in bad faith, or in the case of a professional Trustee (meaning a company in the business of providing a professional trustee service for a fee to pension schemes), out of the Trustee's own negligence.

3.8.3 For the purposes of Clauses 3.8.1 to 3.8.4 above, the Trustee shall include any former Trustee in relation to acts or omissions occurring during the Trustee's term of office.

3.8.4 The Trustee shall take all reasonable steps to mitigate any liabilities incurred by it in the proper performance of its duties to manage and administer the Scheme.

3.9 Trustee director liability

3.9.1 In the case of a Trustee Director, Clause 3.8 (Trustee liability) applies as if that director were a Trustee, subject to the provisions of this Clause. This Clause 3.9 does not affect the protection provided to the corporate body itself under Clause 3.8 or Clause 3.10.

3.9.2 In the case of a Trustee Director, this Clause 3.9 and Clause 3.8 are subject to any limitations contained in the Companies Act on exemption from liability or indemnification. The protection provided under either Clause is restricted to the extent necessary so that it is not void under that Act.

3.9.3 In addition to the restrictions in Clause 3.8, a Trustee Director shall not be entitled to an indemnity from the Employers for:

- (a) any liability to pay a fine imposed in criminal proceedings or a liability incurred in defending criminal proceedings in which they are convicted; or
- (b) any liability to pay a sum to a regulatory authority as a penalty for breach of any regulatory requirement arising out of the Trustee Director's dishonest or intentional breach of trust committed in bad faith or, in the case of a professional trustee (meaning a person or company in the business of providing a professional trustee service to pension schemes), out of the Trustee Director's own negligence.

3.9.4 No exoneration or indemnity under this Clause 3.9 or Clause 3.8 shall apply to any liability arising out of a Trustee Director's wilful default or dishonest or intentional

breach of trust committed in bad faith or, in the case of a Trustee Director who is in the business of providing trustee services for a fee, out of their own negligence.

- 3.9.5 References to a Trustee Director in this Clause 3.9 include any former director or officer of a corporate body which is acting or used to act as the trustee of the Scheme in relation to acts or omissions during the Trustee Director's term of office.

3.10 Liability insurance

- 3.10.1 The Trustee, or the Founder on behalf of the Trustee, may obtain insurance against:
- (a) liability for any act or omission in relation to the Scheme; and
 - (b) claims by any beneficiaries the Trustee is unaware of or whom the Trustee has been unable to contact.
- 3.10.2 Premiums relating to any such insurance shall be an expense of the Scheme under Clause 4.5 (Expenses of the Scheme), except that the Founder may where it so determines, and shall where is not legally permitted to meet such premiums from the Fund, meet the cost of any such premiums.
- 3.10.3 Such insurance may cover any current or former trustee of the Scheme, any Trustee Director and any former director or officer of a corporate body which is acting or used to act as the trustee of the Scheme.
- 3.10.4 To the extent that the Trustee (or a Trustee Director) is entitled to receive payment under any insurance obtained under this Clause 3.10, the Trustee (or Trustee Director) will not be exonerated or entitled to an exoneration or indemnity by the Employers or out of the Fund under Clause 3.8 or Clause 3.9 above.

3.11 General Trustee Powers

- 3.11.1 The Trustee may from time to time in writing authorise any person or persons as it shall think fit to make payments or give receipts and discharges on its behalf and every such receipt and discharge shall be as valid and effectual as if it were given by the Trustee.
- 3.11.2 Subject as provided elsewhere in this Deed, the Trustee shall have and may exercise all powers, rights and privileges in connection with the Fund requisite or proper to enable it to carry out all or any transactions, acts, deeds or things arising under or in connection with this Deed, including the Rules and the operation and administration of the Scheme more generally. The consent or concurrence of the Founder, Employers or Members or any of them shall not be necessary for any receipt, discharge, payment or act in connection with this Deed including the Rules.

4 ADMINISTRATION

4.1 Administrator

- 4.1.1 The Trustee being resident for income or corporation tax purposes in the State shall be responsible for the discharge of all duties imposed on the Scheme Administrator under Chapter 1 of Part 30 of the Taxes Act.
- 4.1.2 After consulting the Founder, the Trustee shall have the power to appoint one or more Registered Administrators who shall be a person qualified for appointment as a Registered Administrator of the Scheme in accordance with the Pensions Act.
- 4.1.3 The Founder shall be the first Registered Administrator for the purposes of Section 59(1AA) of the Pensions Act.

4.2 Auditors and Risk Manager

- 4.2.1 The Trustee may, and shall if so required by the Pensions Act, appoint an auditor to be the Auditor of the Scheme, who shall be a person qualified for appointment as the Auditor of the Scheme for the purposes of the Pensions Act.
- 4.2.2 The Trustee shall have the power to appoint one or more persons or firms to act as internal auditor and/or a risk manager in respect of the Scheme, who shall be persons or firms suitably qualified for appointment to those roles in accordance with the requirements of the Pensions Act.

4.3 Staff and agents

- 4.3.1 After consulting the Founder, the Trustee may employ such staff and agents as it considers to be required on such terms as it considers appropriate.
- 4.3.2 After consulting the Founder, the Trustee may remove any staff and agents it employs on such terms as it considers appropriate.

4.4 Scheme advisers and other service providers

- 4.4.1 After consulting the Founder, the Trustee may appoint any lawyer, broker, actuary, accountant, investment adviser or other professional person or service provider to the Scheme on such terms as it considers appropriate.
- 4.4.2 After consulting the Founder, the Trustee may, and shall where required by law to do so, appoint an investment manager or managers to the Scheme. Such persons shall satisfy any qualification requirements set out in the Pensions Act, or other applicable legislation.
- 4.4.3 After consulting the Founder, the Trustee may remove any adviser or other service provider (including the investment manager or managers) to the Scheme on such terms as it considers appropriate.
- 4.4.4 The Trustee may act on the advice or opinion of any lawyer, broker, actuary, accountant, investment adviser or other professional person or service provider appointed under this Clause 4.4 and shall not be responsible for any loss caused by doing so.
- 4.4.5 Any Trustee Director may appoint an adviser to give legal advice on their personal position as a Trustee Director provided that such advice relates to the current or past administration of the Scheme. Any such appointment will be on such terms as the Trustee Director considers appropriate. The cost of obtaining any such advice may (with the Founder's consent) be treated as an expense of the Scheme under Clause 4.5 (Expenses of the Scheme) or may be met by the Founder.

4.5 Expenses of the Scheme

- 4.5.1 Subject to Clause 4.5.2, the Trustee shall deduct from each Member's Personal Account the Annual Member Fee and any Additional Member Fee due in respect of that Member and may direct that the assets of the Scheme are sold to meet such fees.
- 4.5.2 Each Employer shall pay to the Trustee the amount of any Employer Fees and may agree to pay on behalf of a Member any element of the Member's Annual Member Fee or Additional Member Fee.
- 4.5.3 Any liabilities, costs and expenses incurred by the Trustee in the management and administration of the Scheme shall be met from the Annual Member Fees, Additional Member Fees and any applicable Employer Fees.

- 4.5.4 Subject to Clauses 4.5.5 and 4.5.6, to the extent that the liabilities, costs and expenses incurred by the Trustee in the management and administration of the Scheme exceed the sums available from Annual Member Fees, Additional Member Fees and any applicable Employer Fees, or to the extent that the Trustee otherwise considers appropriate, those liabilities, costs and expenses shall be met from the Reserve Account(s).
- 4.5.5 Notwithstanding the other provisions of this Clause 4.5, the Founder may agree with the Trustee to meet any of the liabilities, costs and expenses incurred by the Trustee in connection with the management and administration of the Scheme.
- 4.5.6 In the event of expenses including the Trustee's liabilities, costs, charges and expenses incurred in relation to any dispute of defending proceedings in respect of a Member or Members, the Trustee may elect to be reimbursed for part or all of such expenses from the Personal Account in respect of that Member or those Members before meeting any remainder in accordance with Clauses 4.5.4, 4.5.5 or 4.5.7.
- 4.5.7 The Trustee is entitled to recover any liabilities, costs and charges relating to the management and administration of the Scheme not otherwise provided for under this Clause 4.5 from the assets of the Fund including by deduction from Member Personal Accounts in such manner as the Trustee deems appropriate.
- 4.5.8 To the extent that the Founder provides services to the Trustee in relation to the Scheme the Founder is entitled to charge for such services and to be paid its fees and charges (as agreed with the Trustee) for those services. The total of those fees and charges payable to the Founder cannot exceed the total of the Annual Member Fees, Additional Member Fees and any applicable Employer Fees relating to the period to which the fees and charges apply together with any amounts in the Reserve Accounts or any commission or other payment in relation to the operation of the Scheme received by or on behalf of the Trustee.
- 4.5.9 The Trustee will notify each Member of the Annual Member Fee and any Additional Member Fee applicable to that Member, and of any changes to the basis of calculating these fees.
- 4.5.10 The winding up of the Scheme shall, for the avoidance of doubt, form part of the management and administration of the Scheme.

4.6 Reports and Accounts

- 4.6.1 Not more than nine months after the end of each Scheme Year (or such other period as may be required by the Pensions Act), the Trustee shall prepare or cause to be prepared an annual report concerning the operation of the Scheme during that Scheme Year in such form and containing such information as may be required under the Pensions Act.
- 4.6.2 The Trustee shall ensure that proper accounts, entries, registers and records are kept to allow for the proper working of the Scheme and shall, if so required under the Pensions Act, cause the accounts to be audited by the auditor in accordance with the requirements of the Pensions Act. A fund account and net assets statement of the Fund made up to the accounting date in each year shall be prepared and shall be audited by the auditor appointed by the Trustee in accordance with the requirements of the Pensions Act. The accounting date shall be such date as the Trustee decides after consulting the Founder.

4.7 Notices

- 4.7.1 Any notice to the Trustee must be sent to its registered office or to such other address as the Trustee may from time to time nominate by notice in writing to the Founder for the receipt of such notices.
- 4.7.2 Subject to Clause 4.7.6, notice to the Founder must be sent to its registered office or such other address as the Founder may from time to time nominate by notice in writing to the Trustee for the receipt of such notices.

- 4.7.3 Subject to Clause 4.7.6, notice to an Employer must be sent to its registered office or such other address as the Employer may from time to time nominate by notice in writing to the Trustee for the receipt of such notices.
- 4.7.4 Subject to Clause 4.7.6, notice to any person entitled to benefits under the Scheme must be sent to the last known address held by the Trustee in relation to that person.
- 4.7.5 Notices delivered by hand shall be deemed to have been served at the time of delivery. Notices sent by express post shall be deemed to be served on the first day after posting. Notices sent by ordinary post shall be deemed to have been served on the third day after posting.
- 4.7.6 Notwithstanding the previous provisions of this Clause 4.7, the Trustee may use and may at its discretion accept the use for the purposes of the Scheme of any means of communication the Trustee considers appropriate, including electronic means such as facsimile, e-mail or telephone text message subject to always complying with relevant legislative requirements. The Trustee shall decide the time at which any such communication shall be deemed to be served.
- 4.7.7 Notwithstanding the previous provisions of this Clause 4.7, the Trustee or the Founder, as applicable, may at its discretion accept any notice required to be given to it under this Deed as being validly given even if it was not in writing or did not satisfy any notice period or other formality required under this Deed or under legislation.
- 4.7.8 Where any notice is required to be given under this Deed and a time period is specified, time will begin to run from the date the notice is deemed to have been served under this Clause. Any notice will be deemed to be effective from the last day of the notice period or such later date as is specified in the notice.

4.8 Power to bind the Scheme

The Trustee may enter into such contracts or other agreements and give such undertakings or indemnities on such terms as it, in consultation with the Founder, decides are proper for the efficient administration of the Scheme. Unless otherwise stated, such contracts or agreements shall bind the successors in office to the Trustee which originally entered into them.

4.9 Questions of fact and interpretation

Except where expressly stated otherwise, the Trustee has the final decision on all questions or disputes as they apply to Members and Life Assurance Only Members regarding the meaning or interpretation of this Deed and shall determine all issues or questions of fact relating to the administration of the Scheme.

4.10 Power to commence, settle and defend proceedings

In addition to the powers conferred on the Trustee by general law, the Trustee may commence and pursue legal proceedings relating to the operation of the Scheme, its actions as Trustee or the rights of beneficiaries under the Scheme. The Trustee may also defend any such proceedings. The Trustee has complete discretion to submit to mediation or arbitration any claim or other matter relating to the Scheme but must obtain Founder consent to settle or compromise a claim or other matter relating to the Scheme (other than where the Founder is the subject of those proceedings), such consent not to be unreasonably withheld or delayed.

4.11 Confidentiality

Subject to the requirements of any legislation or to any order of the court or decision of the Financial Services and Pensions Ombudsman or any successor Ombudsman, the Trustee shall be entitled to refuse to disclose to any Member or other actual or potential beneficiary or to any Employer the whole or any part of any documents, minutes, records or other data in its possession and shall not be obliged to give reasons for any decision it makes.

5 PAYMENT OF BENEFITS

5.1 Personal details

- 5.1.1 Before making any payment out of the Fund, the Trustee may require the production of any evidence or information, including any certificate or evidence of the birth, age, marriage, civil partnership, continued existence or death of the Member or other person claiming the benefit or of their Dependants, any Personal Fund Threshold Certificate, and information as to any benefits either paid from, or retained by the Member in, any other retirement benefits schemes or arrangements. Payment of any benefit may be withheld until the required information is provided. No interest will be payable in respect of any period for which payment is withheld.
- 5.1.2 If any beneficiary, or other person on their behalf, provides incorrect or invalid information to the Trustee or fails to provide any information requested by the Trustee, the Trustee may make any arrangements it considers reasonable in relation to the benefits in respect of that beneficiary, and may adjust any benefit payable out of the Fund to or in respect of that beneficiary to take account of such failure to provide complete or accurate information.

5.2 Payment of benefits

- 5.2.1 Subject to the provisions of the Pensions Act, benefits are payable in any way the Trustee thinks fit and are subject to the Member or beneficiary producing any documentation required by the Trustee. If the Trustee agrees to make payment by post, or to a bank account which is outside Ireland or is not in the name of the Member or beneficiary, that payment will be at the risk (and where the Trustee considers appropriate, at the expense) of the Member or beneficiary.
- 5.2.2 If the Trustee is advised that a person who is entitled to receive a benefit under the Rules (the "**Entitled Person**") may lack capacity, as defined in the Assisted Decision-Making (Capacity) Act 2015, the Trustee shall be directed in its future dealings with the Entitled Person by reference to and in accordance with that Act. In doing so, the Trustee is hereby granted any necessary authority to pay and/or apply any benefits for the Entitled Person under the Rules to another person or persons to be held on behalf of or for the benefit of the Entitled Person. Any such payment or application shall be a complete discharge to the Trustee for the moneys so paid or applied.
- 5.2.3 If any person entitled to receive a payment from the Fund is in prison or other legal custody for a period, the Trustee may suspend that person's benefits for that period and pay an equivalent sum to any person to be applied for the benefit of the Member.

5.3 Incorrect payments

Where any Member or other beneficiary is paid a sum from the Fund to which they are not entitled or which exceeds their entitlement from the Fund, the Trustee may demand repayment of that sum and may, if it considers appropriate, charge interest on the amount due at such rate as the Trustee considers appropriate and recover from the Member or other beneficiary any costs incurred in relation to the recovery of the sum repayable. The Trustee may also deduct any such sum from future payments due to or in respect of that person including any payments made after their death, but subject to the provisions of the Pensions Act.

5.4 Payment of lump sum death benefits

- 5.4.1 Where on the death of a beneficiary an amount is stated to be payable in accordance with this Clause 5.4 or is otherwise subject to discretionary distribution by the Trustee, the Trustee shall, subject to the following provisions of this Clause 5.4, pay or apply that sum to or for the benefit of one or more persons in relation to the beneficiary in any of the following categories:
- (a) Relatives;
 - (b) Dependants;
 - (c) personal representative (or executors);

- (d) nominated beneficiaries; and
 - (e) any person or body (including a charity) entitled to receive any sum from the Member's estate.
- 5.4.2 Where more than one person is to receive a payment under this Clause 5.4 the Trustee shall decide what amount is to be paid to each person.
- 5.4.3 The Trustee may establish separate trusts for the benefit of any beneficiary it selects to receive any amount under Clause 5.4.1.
- 5.4.4 The Trustee may use any amount held in accordance with this Clause 5.4 to purchase an annuity for any Dependant of the Member.
- 5.4.5 Pending any payment out of the Fund under this Clause 5.4, the Personal Account of the Member shall remain invested under the Scheme and the Trustee shall not be under any duty to review the appropriateness of the investment funds which that Personal Account is invested.
- 5.4.6 The Trustee may have regard to any document signed by a Member, Dependant or beneficiary expressing their wishes for the disposal of any sum payable from the Scheme on their death including, where a Member has transferred benefit to the Scheme from another Approved Scheme (or other arrangement), any expression of wishes by the member which is provided to the Trustee by the trustee or administrator of such other Approved Scheme (or other arrangement). Any person, charity or unincorporated association in the document will be a "**nominated beneficiary**" for the purpose of Clause 5.4.1.
- 5.4.7 No payment shall be made to the Member's personal representative if it would pass to the State as ultimate intestate successor, or if it would vest in a creditor of the beneficiary. If there is no other person to whom the payment may be made in such circumstances, the Trustee shall hold that sum as part of the Reserve Account.
- 5.4.8 The Trustee may pay all or part of the costs and expenses relating to the funeral of the Member or Dependant or reimburse any person who has incurred all or part of those costs and expenses up to an aggregate amount of €5,000. Any such payment shall be deducted from any sum payable under this Clause 5.4. The Trustee may make such a payment in advance of exercising its general discretion as to the payment of a lump sum under this Clause 5.4.
- 5.4.9 The Trustee shall not be obliged to take into consideration under this Clause 5.4 any potential beneficiary other than one whose existence and claim to be considered has been brought to the Trustee's attention at the time of the exercise of the Trustee's discretion under this Clause 5.4.

5.5 **Payments to personal representatives**

Where any sum is payable to the estate of a Member, Dependant or other beneficiary the Trustee may pay that sum to any person who the Trustee considers capable of being the personal representative (or executor) of the Member, Dependant or beneficiary without seeing a grant of representation or other relevant documentation or to any other person the Trustee considers has an interest in the Member's estate and a receipt given by that person is a complete discharge to the Trustee.

5.6 **Medical reports**

- 5.6.1 The relevant Insurance Company with whom the Trustee has insured any of the benefits under the Scheme, may require a Member to undergo a medical examination. Any costs relating to such an examination not met by the Insurance Company shall be met by either the Member or their Employer as they shall agree.
- 5.6.2 If a medical examination under this Clause 5.6 shows that the individual does not have the normal expectation of life, or if they refuse or fail to undergo a medical examination or if the relevant Insurance Company imposes any limitations on the

scope of cover, the Trustee may, subject to the requirements of any applicable laws, decide to refuse payment in respect of:

- (a) a new Member of the whole or part of the benefit payable on death;
- (b) an existing Member of the whole or any part of any increased benefits resulting from a future increase in salary; or
- (c) a Member who is absent from work because of illness or injury at the time they join the Scheme or begin service (as the case may be) of the whole or part of the benefits payable on death before Normal Retirement Date until they have satisfied such terms as may be imposed by the relevant Insurance Company.

5.7 Taxation deductions

If the Trustee is or may be liable to pay any tax or duty to the Revenue Commissioners in respect of any benefit payable to a Member or other beneficiary, or otherwise agrees to meet a tax, charge, levy or duty due in respect of any benefit payable to such a person, the Trustee is entitled to deduct the expected or actual amount of that charge and any interest due on it from the benefits or other payments otherwise due to or in respect of the relevant person from the Scheme or deduct the amount from the Member's Personal Account in such manner as the Trustee determines. However, in the event that the actual tax charge is less than the amount deducted, the Trustee shall refund the difference to the Member or other beneficiary in such manner as it deems appropriate.

5.8 Member Taxation

The Trustee, the Founder, and the relevant Member's Employer are under no duty to a Member or other beneficiary to consider the tax implications of the operation of the Scheme in relation to such Member or beneficiary or to ensure that the Scheme is operated in a manner which avoids or limits the application of any tax charges, penalties or other costs on the Member or other beneficiary. Neither the Trustee nor the Founder shall be liable for any tax charge or other liability of the Member in relation to a breach of relevant limitations on tax relief for pension contributions, relevant standard or personal fund thresholds or otherwise and, to the extent any such liability may arise as a matter of law, Clause 5.7 above shall apply.

5.9 Unclaimed benefits

- 5.9.1 Subject to the requirements of any applicable legislation, benefits are only payable when claimed by the Member or beneficiary and the Trustee is not obliged to locate the recipient of a benefit to inform them of their entitlement to a benefit from the Scheme.
- 5.9.2 Where any Member or beneficiary has not claimed any payment due to him for 12 years nor have they been in contact with the Trustee during that 12 year period, and the Trustee considers it reasonable to do so, their membership of the Scheme and their Personal Account under the Scheme may be cancelled and any benefits due to or in respect of the Member under the Scheme will cease to be payable at the direction of the Trustee and the balance of their Personal Account and any other benefits due shall be transferred to the Reserve Account. The Trustee may subsequently reinstate membership, a Personal Account or other benefits if it considers it reasonable to do so using funds from the Reserve Account.

5.10 Pensions on divorce and judicial separation

- 5.10.1 The provisions of this Deed and the benefits payable under the Rules shall be subject, where applicable, to the provisions of the Family Law Acts
- 5.10.2 The Trustee may in its discretion and subject to such conditions as it considers appropriate agree to recognise and implement any order made under the Family Law Acts in respect of another Approved Scheme (or other arrangement) as if such order had been made in respect of the Scheme.

6 BENEFIT RESTRICTIONS

6.1 Forfeiture, charges, lien and set-off

- 6.1.1 If a Member owes money to the Trustee or their Employer as a result of their criminal, negligent or fraudulent act or omission, or if they are a Trustee Director, arising out of their breach of trust (unless the Trustee Director's liability for breach of trust is excluded under Clause 3.8 (Trustee liability) or Clause 3.9 (Trustee Director liability)) the Employer and the Trustee shall be entitled to a charge over, lien on or set-off against any benefit to which a Member is or may become entitled.
- 6.1.2 If a Member owes money to their Employer as a result of their criminal, negligent or fraudulent act or omission, the Trustee may forfeit some or all of the benefits payable to or in respect of them, including by deduction from their Personal Account. The Trustee may pay a sum equal to the value of the benefits forfeited to the Employer in such circumstances.
- 6.1.3 Where a forfeiture, charge, lien or set-off is imposed under this Clause 6.1:
- (a) its amount must not exceed the amount of the monetary obligation, or, if less, the value of the benefit or Personal Account;
 - (b) the Member must be given a certificate showing the amount of the forfeiture, charge, lien or set-off and its effect on their benefits;
 - (c) where there is a dispute about the amount, the forfeiture, charge, lien or set-off must not be exercised until the obligation has become enforceable under a court order or an award of an arbitrator;
 - (d) a charge, lien or set-off cannot be exercised in respect of benefits received following a transfer from an Approved Scheme unless that scheme is attributable to employment with the same Employer or an associated employer and the benefits could have been charged or a lien or set-off exercised in respect of them under that scheme; and
 - (e) a charge, lien, set off or forfeiture may only be made or applied subject to the overriding provisions of the Pensions Act.

6.2 Restrictions on assignment

- 6.2.1 Subject to Clause 6.2.3, and Section 36 of the Pensions Act, no benefit under the Scheme can be assigned or charged for the benefit of anyone other than the person entitled, or prospectively or contingently entitled to it under this Deed. Each assignment of, or charge on, any such benefit and any agreement to assign or charge it shall be void.
- 6.2.2 If a Member attempts to assign their benefits or the Member's benefits are charged for the benefit of someone other than the Member, the Member shall cease to be entitled to any benefits which they may otherwise expect to receive under the Rules. The Trustee may then apply an amount equal to such benefits for the benefit of the Member or their Dependants in such shares and proportions as the Trustee thinks fit.
- 6.2.3 The provisions of this Clause 6.2 do not apply to any assignment or charge permitted in this Deed or as required under the provisions of any legislation relating to bankruptcy or the treatment of pension rights on divorce, judicial separation or dissolution of a civil partnership.

6.3 Excess contributions on bankruptcy

Where a court order has been made in relation to a Member under Section 44B of the Bankruptcy Act 1988, the Trustee may take all necessary steps to comply with such an order, including making any adjustments it considers necessary to benefits payable to or in respect of the Member.

7 INVESTMENT

7.1 Power of investment – General provisions

- 7.1.1 Subject to Clauses 3.6, 4.3 and 4.4.2, and to Section 59AB of the Pensions Act and any other restrictions imposed by legislation, the Trustee has the same full and unrestricted powers of investing and changing investments as if it were the beneficial owner of the Fund and shall, at its own discretion, take investment advice. All money held in or for the purposes of the Fund shall be placed in a bank account or invested in such other manner as the Trustee may determine, whether or not involving liability or producing income and with or without security and may include derivative contracts, including swaps, foreign exchange contracts, futures, options or contracts for differences, securities lending and any other similar arrangements. As part of any such arrangement (or in relation to it) the Trustee may give undertakings, indemnities or guarantees and provide security or collateral.
- 7.1.2 All investments shall be held in the name of the Trustee or in the name of a nominee, custodian or agent appointed by the Trustee on such terms as the Trustee may decide are appropriate.
- 7.1.3 The Trustee shall not invest in employer-related investments except to the extent permitted by legislation.
- 7.1.4 The Trustee may, and shall if so required by the Pensions Act or other legislative requirement, take account of environmental, social and governance factors in exercising its investment powers under this Clause 7.

7.2 Power of investment – Options in relation to Personal Accounts

- 7.2.1 Notwithstanding Clause 7.1, and subject to Clause 7.2.2, the Trustee may provide the Members with a choice of investment options in which their Personal Account may be invested.
- 7.2.2 The provision of investment options shall be subject to Clauses 3.6, 4.3 and 4.4.2, and to the following conditions:
- (a) The choice of investment options may apply to the whole or any part of the Member's Personal Account and conditions and limitations may be imposed.
 - (b) The Trustee may offer different investment options to different groups of Members including Members relating to different Employers or Members in different Plans of the Scheme.
 - (c) Subject to any restrictions or conditions imposed under the relevant Plan Schedule, the Trustee shall determine the investment options to be made available and the conditions and limitations which shall apply to them and, in such circumstances and within such time limits as may be prescribed, shall furnish to the Members such information as may be prescribed in relation to those investment options and take such other steps as are reasonable to ensure that Members have any further information necessary to enable them to make an informed decision in giving directions regarding those investment options.
 - (d) Subject to any restrictions or conditions imposed under the relevant Plan Schedule, the Trustee at any time may add to and/or withdraw any investment options from the range of investment options available to Members, or Members within different Plans, or may vary or waive any of the conditions or limitations attaching to the investment options or any of them, or may where an existing investment option is withdrawn transfer existing monies invested in that option to any other or any new investment option without the consent of the relevant Member or Members concerned.
 - (e) The Trustee may at any time withdraw the provision of investment options to Members. In such a case, the Trustee shall invest the Members' Personal Accounts in accordance with Clause 7.1.

- (f) Subject to any restrictions or conditions imposed under the relevant Plan Schedule, the Trustee shall select the default investment option or options which are to apply to the Members participating in a particular Plan of the Scheme.
- (g) Provided the choice of investment options granted to a Member has not been withdrawn, the Trustee shall invest the Member's Personal Account or such part thereof as is subject to the option, in accordance with the Member's direction but subject always to the conditions and limitations attaching to the investment options and the right of the Trustee to change the range of funds and arrangements available to Members (or to Members in different Plans).
- (h) For so long as a Member has not informed the Trustee of their chosen investment option, they shall be deemed to have directed the Trustee to invest their Personal Account, or such part thereof as is subject to the option, in the applicable default investment option within the range of investment options applicable to that Member's Plan.
- (i) Without prejudice to the generality of Clause 3.8 (Trustee Liability), neither the Trustee nor the Founder shall be liable for any loss or damage, depreciation or lack of appreciation which may be attributable to their following the Member's selection of investment options under this Clause 7.2, or carrying or withdrawing an investment option, varying or waiving any of the conditions or limitations attaching to any option, and/or applying the default investment option under this Clause 7.2.
- (j) Prior to giving the Trustee directions under this Clause 7.2, the Member shall carry out such investigations into the proposed investment(s) as would enable the Member to make an informed decision on whether or not to invest and shall provide the Trustee with such confirmations as the Trustee may require in order to satisfy itself that this requirement has been satisfied.
- (k) Without prejudice to the generality of Clauses 3.8 and 3.9 and in addition to the exemption granted by Section 59(2) of the Pensions Act, each Member shall indemnify and hold harmless the Trustee, its servants, agents and delegates against loss, claim, expense or liability arising out of or in connection with the implementation of a direction (or directions) given by the Member save where the said loss, claim, expense or liability is as a result of the gross negligence, wilful default or fraud on the part of the Trustee, its servants, agents and/or delegates.

7.2.3 The Trustee shall transfer into the Reserve Account(s) any monies in relation to investments made in respect of an individual which are received by the Trustee following that individual ceasing to be a Member, where the Trustee considers that the cost or difficulty of seeking to apply that money for the benefit of the individual justifies such a direction. The Trustee shall determine the allocation of such monies between Reserve Accounts.

7.3 Power to borrow and to insure

7.3.1 To the extent permitted by law, the Trustee may borrow money required for the purposes of the Scheme, including in relation to the investment of Scheme assets, to the same extent as if it were the beneficial owner of the Fund. However, such borrowing must comply with the requirements of the Occupational Pension Schemes (Investment) Regulations 2021, Section 61B of the Pensions Act, and any other limitation imposed by legislation.

7.3.2 The Trustee may insure the assets of the Fund, including any individual asset or investment of the Fund, against any risks which may arise in the course of holding any investment.

8 POWERS AND OBLIGATIONS OF THE FOUNDER AND EMPLOYERS

8.1 Powers of the Founder

For so long as the Founder is in a period of Insolvency, all powers and consents otherwise exercisable by the Founder under this Deed shall instead be exercised or given by the Trustee.

8.2 Powers of Employers

- 8.2.1 Subject to Clause 8.2.3, once an Employer enters Insolvency, all powers and consents otherwise exercisable by that Employer under this Deed shall instead be exercised or given by the Trustee.
- 8.2.2 Subject to Clause 8.2.3, if in respect of any Member a power or consent is expressed to be exercisable by the Employer of that Member but that employer no longer participates in the Scheme, the power or consent shall be exercisable by the Trustee.
- 8.2.3 Clauses 8.2.1 and 8.2.2 above shall not apply where the Principal Employer in respect of that Employer (or where that Employer is the Principal Employer, another entity connected or associated with that Employer) agrees to assume all obligations and liabilities of that Employer and the Plan Schedule(s) relevant to that Employer are amended to record this in accordance with Clause 12.1.5.

8.3 Consultation with Employers

Subject to Clause 8.3.2, each of the Employers have, by agreeing to participate in the Scheme, appointed the Founder as its agent for the purposes of any legislation under which the Trustee is required to consult with the Employers or to reach agreement with the Employer about any matter. No Employer, other than the Founder, may challenge the validity of any decision on the grounds that there was no consultation or agreement in relation to it.

8.4 Termination of employment

Nothing in this Deed restricts the rights of an Employer to terminate the employment of a Member. The benefits to which a Member might claim to be entitled from the Fund in respect of a period after their contract of service could lawfully be terminated cannot be used as a ground for increasing damages in any action brought by such Member against the Employer.

8.5 Information from Employers

- 8.5.1 Each of the Employers shall provide the Trustee with such information as the Trustee shall reasonably require for the purposes of the administration of the Scheme in relation to Members who are or were its Employees.
- 8.5.2 In any circumstance where the actions of an Employer have caused the Trustee, without the Trustee and the Founder's agreement, to require to be authorised under section 149 of the Pensions Act, that Employer shall indemnify the Trustee and Founder for all additional costs or liabilities incurred on account of the Trustee taking steps to become so authorised by the Pensions Authority and to comply with the requirements of Part XII of the Pensions Act and any such steps taken by the Trustee shall be without prejudice to any other powers it has under this Deed or by law.

9 PARTICIPATION OF EMPLOYERS

9.1 Participation by Employers

- 9.1.1 Subject to the consent of the Founder and the Trustee (the Trustee's consent not to be unreasonably withheld or delayed) any company, partnership, association or other entity may participate in the Scheme as an Employer with effect from a date specified in the Participation Agreement entered into by that Employer, the Founder and the Trustee under which it agrees to comply with the provisions of this Deed so far as they relate to it and to its Employees who become Members.
- 9.1.2 The Participation Agreement relating to each Employer shall include a Plan Schedule or Schedules each relating to that Employer and to an individual Member who is an Employee of that Employer.
- 9.1.3 Subject to the consent of the Founder and the Trustee (the Trustee's consent not to be unreasonably withheld or delayed) an Employer may at any time issue an

additional Plan Schedule or additional Plan Schedules each relating to that Employer and to an individual Member who is an Employee of that Employer.

- 9.1.4 The terms of each Plan Schedule issued under Clauses 9.1.2 and 9.1.3 shall be deemed to be incorporated into the Rules. In the event of any conflict between a Plan Schedule and the General Rules, the General Rules shall take precedence.
- 9.1.5 Where a Participation Agreement relates to more than one Employer the relevant Plan Schedule(s) shall specify one of those Employers as the Principal Employer in relation to those Employers for the purposes of the Trust Deed. In other circumstances the sole Employer shall also be the Principal Employer in relation to the relevant Plan Schedule(s). The Principal Employer under a Plan Schedule may be changed to any other Employer by amendment of the Plan Schedule in accordance with Clause 10.
- 9.1.6 When an Employer participates in the Scheme the Trustee may at the request of the Founder (such request not to be unreasonably declined by the Trustee) accept a transfer payment from the trustees of any Approved Scheme in which the Employees or former Employees of the Employer have previously been members and shall apply that transfer payment in accordance with the provisions of Rule 6.2 (Transfers in) in such manner as the Trustee shall determine. Any individuals who become Members of the Scheme as a result of that transfer (who need not be Employees of the Employer) shall be deemed to relate to that Employer (or, if the Trustee so decides, the relevant Principal Employer) for as long as that Employer participates in the Scheme.
- 9.1.7 An entity may be admitted to participate in the Scheme under this Clause for a temporary period only.
- 9.1.8 An Employer may nominate its Principal Employer to exercise any of its discretions or powers under the Scheme in its place, and to comply with any of its obligations in its place, except that the Employer remains responsible for complying with any such obligation if the Principal Employer fails to do so.

9.2 Terminating contributions

- 9.2.1 An Employer may, by giving not less than one month's written notice to the Founder and the Trustee, terminate its contributions in respect of some or all of its Employees who are Members. Unless the participation of the Employer is also terminated under Clause 9.3, the Employer shall remain liable for any Employer Fees or other sums due under the Scheme but no further contributions will be due from the Employer in respect of the Members covered by that notice.
- 9.2.2 Where an Employer terminates its contributions in respect of a Member under this Clause 9.2 the Member shall be deemed to have left the service of the Employer on the date of that termination and the Member's contributions to the Scheme shall also terminate and the Employer shall provide the Trustee with such information as it reasonably requires to enable the Trustee to establish the Member's status for the purpose of Part III of the Pensions Act.
- 9.2.3 A Principal Employer may give notice under this Clause on behalf of any Employer in the group of Employers in respect of which it is the Principal Employer.

9.3 Employer ceasing to participate

- 9.3.1 An Employer will cease to participate in the Scheme when any of the following events take place or when any notice given in accordance with the following provisions takes effect:
- (a) the Founder gives written notice to the Employer and the Trustee terminating the participation of the Employer;
 - (b) the Trustee decides to terminate the participation of the Employer at any time after the Employer goes into Insolvency;

- (c) the Employer gives at least one month's written notice to the Trustee and the Founder that the Employer shall cease to participate;
 - (d) the Trustee gives at least one month's written notice to the Employer that it has failed to comply with any of the requirements of this Deed and the Trustee determines that the Employer has failed to take satisfactory steps to correct its failure before the notice takes effect.
- 9.3.2 Where an Employer ceases to participate in the Scheme in accordance with this Clause 9.3 (Employer ceasing to participate) any Member who was then in service with that Employer shall be deemed to have left service on the date their Employer ceases to participate in the Scheme **PROVIDED THAT**, for so long as the Occupational Pension Schemes (Preservation of Benefits) Regulations 2002 apply to the Scheme, if their employment transfers to another Employer with effect from a date within one month of such date of cessation and they remains eligible for membership and re-joins the Scheme within that time, their Relevant Employment shall not terminate.
- 9.3.3 The Trustee may suspend an Employer's participation as an Employer in the Scheme for such period as it may determine, where the Employer has not complied with its obligations to make contributions to the Scheme in respect of one or more Members in its employment or employees in its employment who ought to have been included in the Scheme as Members. For the period of the suspension, no new Employees in the employment of the Employer shall be registered by the Trustee as Members.
- 9.3.4 The Employer may apply to be re-admitted as an Employer upon paying the Trustee all arrears of contributions up to the date of its suspension, and any additional Employer Fee determined by the Trustee to cover the additional cost of dealing with the Employer's non-compliance and suspension. Where an Employer who applies to be re-admitted under this Clause 9.3.4 has been suspended on a previous occasion, the Trustee may before allowing him to be re-admitted as an Employer impose such additional conditions as it determines on the Employer, and in doing so may have regard to the overall interests of the Scheme.
- 9.3.5 An Employer's obligation to contribute to the Scheme ends when its participation in the Scheme ceases but any amount due from the Employer prior to cessation of participation shall remain payable. Any Employer Fees which the Employer has been paying in respect of Members shall become Annual Member Fees deductible from those Members' Personal Accounts with effect from the date the Employer ceases to participate.

10 SUBSTITUTION OF FOUNDER

10.1 Resignation of Founder

If the Founder notifies the Trustee, in writing, that it no longer wishes to perform the obligations and duties of the Founder under the Scheme, and unless the Founder has entered into an agreement with a new Founder in accordance with Clause 10.2.1 below, then the Trustee may make such arrangements, as it thinks fit, for the continuation of the Scheme by agreeing a deed of substitution under Clause 10.2 below.

10.2 Replacement of Founder

- 10.2.1 Subject to the consent of the Trustee, any company, firm or person may be substituted as the Scheme's Founder by agreement with the Founder. The new Founder, the existing Founder and the Trustee must execute a deed of substitution under which the new Founder replaces the existing Founder and agrees to observe and comply with the provisions of this Deed and the substitution shall take effect from the date specified in that deed.
- 10.2.2 Where the Founder is in Insolvency or otherwise has ceased to exist (including by merger, acquisition or similar process) or has otherwise ceased to carry on the business of Founder without making an agreement of the kind referred to in Clause 10.2.1, any company, firm or person may be substituted as the Scheme's Founder by agreement between the Trustee and the new Founder. The new Founder and the

Trustee must execute a deed of substitution under which the new Founder replaces the existing Founder and agrees to observe and comply with the provisions of this Deed and the substitution shall take effect from the date specified in that deed.

- 10.2.3 When a new Founder is appointed in accordance with this Clause 10.2, the previous Founder shall be discharged from all future obligations as Founder of the Scheme and all powers and obligations of the Founder under the Scheme shall become powers and obligations of the new Founder with effect from the new Founder's date of appointment.

11 TERMINATION AND WINDING UP

11.1 Power of termination

- 11.1.1 The Founder may terminate the Scheme by giving at least six months' notice (or such shorter period of notice as may be agreed with the Trustee) in writing to the Trustee.
- 11.1.2 The Trustee shall give notice to each Employer as soon as reasonably practicable following receipt of a termination notice under Clause 11.1.1.

11.2 Termination of the Scheme

- 11.2.1 The Scheme shall be terminated on the day on which the first of the following events occurs:
- (a) the expiry of the notice period specified in any notice given under Clause 11.1.1 (Power of termination); or
 - (b) the decision of the Trustee to terminate the Scheme at any time during the Insolvency of the Founder; or
 - (c) the decision of the Trustee to terminate the Scheme in the event that the Founder ceases to act as Founder in circumstances to which Clause 10.1 applies and the Trustee is unable within 6 months to secure agreement with an entity which is willing and able to become the new Founder in accordance with Clause 10.2.1; or
 - (d) the application of any requirement of legislation or any order of the Pensions Authority or of a court of competent jurisdiction requiring termination of the Scheme.
- 11.2.2 On the termination of the Scheme, Members then in service with an Employer shall be treated as if their service had terminated, all contributions from or in respect of Members shall cease and the Scheme shall be wound up.
- 11.2.3 On the termination of the Scheme the Employers shall not be liable for any further payments to the Fund, except for payments due on or before the date of termination.
- 11.2.4 If the Scheme is being wound up, the power of amendment conferred by Clause 12 (Amendments and Augmentations) shall continue in relation to the provisions of this Deed **PROVIDED THAT** where the winding-up is triggered by an event under Clause 10.2.2, the consent of the Founder shall no longer be required to effect amendments **PROVIDED FURTHER THAT** no amendment made without the consent of the Founder may give rise to any additional liability or cost for the Founder.
- 11.2.5 In the event of a termination of the Scheme the expenses of winding up the Scheme shall be paid in accordance with Clause 4.5 (Expenses of the Scheme).
- 11.2.6 The balance of the Reserve Accounts (if any) after all expenses have been met and all benefits have been provided under Clause 11.3 shall be paid to such charity as the Trustee may decide.

11.3 Securing benefits on winding up

- 11.3.1 On the winding up of the Scheme the Trustee will comply with all notification requirements under the Pensions Act and the balance of each Member's Personal Account will be applied to secure benefits to or in respect of that Member by one or more of the following methods but subject always to any conditions or limitations imposed by any applicable legislation or by the Revenue Commissioners:
- (a) making a transfer payment to any Approved Scheme (or more than one such scheme) which satisfies the requirements prescribed by legislation and is able and willing to accept that transfer;
 - (b) buying one or more annuities or other policies which satisfy the requirements prescribed by legislation from one or more Insurance Companies;
 - (c) paying the benefit as a lump sum payment to or in respect of the Member or other beneficiary on such terms as the Trustee decides;
 - (d) assigning the benefit of any contracts held by the Trustee to provide an annuity or other benefits, but subject to any requirements prescribed by legislation;
 - (e) making a transfer payment to any PRSA or any other arrangement established by the Member and approved for the purposes of this Clause by the Revenue Commissioners;
 - (f) making a transfer payment to any ARF established by the Member.
- 11.3.2 The Members or any other beneficiary under the Scheme shall not be required to consent to their benefits being secured by any one or more of the above options where permitted by, and subject to compliance with, the Pensions Act or other applicable legislation.
- 11.3.3 Once the benefits of any Member or other beneficiary are secured in accordance with this Clause 11.3, the Scheme (including the Trustee and the Founder) shall be discharged from any further liability to or in respect of that Member or other beneficiary.

11.4 Continuation as a closed scheme

As an alternative to Clause 11.2, the Founder and the Trustee may agree to continue the Scheme or any Plan or Plans of the Scheme as a closed scheme in which case the following provisions shall apply:

- 11.4.1 The Members under the Scheme (or Plan or Plans of the Scheme which is or are not being wound up) shall not pay any further contributions to the Scheme.
- 11.4.2 The Members shall not, unless the Founder and the Trustee agree otherwise, continue to be entitled to any life assurance benefit payable on death under Rule 4.1 and the Employers shall not pay any further contributions to the Scheme for or on behalf of the Members.
- 11.4.3 The Founder and the Trustee may agree at any time that the Scheme shall be terminated, and the provisions of Clause 11.2 and 11.3 shall apply.
- 11.4.4 The Founder and the Trustee may agree to reopen the Scheme if it has been closed under this Clause 11.4 and may specify the terms on which the reopened Scheme shall operate.

12 AMENDMENTS AND AUGMENTATIONS

12.1 Power of amendment

Deed

- 12.1.1 Subject to any statutory requirements, Clause 2 and Clause 12.2 (Restrictions on amendment power), the Founder may, with the written consent of the Trustee amend

all or any part of this Deed (including all or any part of the Schedules to it, any Plan Schedule and this Clause 12) whether retrospectively or otherwise.

- 12.1.2 Any amendment under Clause 12.1.1 may be made by deed. Alternatively, the Founder and the Trustee may announce any such amendment to Members (and the amendment will have effect from the date of such announcement or such other date as stated in the announcement) and then subsequently record the relevant amendment by deed executed by the Founder and the Trustee. Subject to Clause 12.1.3, any provisions so made shall be as valid as if they had been originally made by deed and may be amended in the same way.
- 12.1.3 Subject to any statutory requirements, Clause 2 and Clause 12.2 (Restrictions on amendment power), if the Trustee decides by resolution and with the consent of the Founder that the effect of an amendment by deed does not reflect the intention of the parties to that deed, such amendment shall be void to the extent that it does not reflect those intentions unless the Trustee and the Founder agree to adopt that amendment. Any such resolution shall be effective only from the date it is passed by the Trustee under this Clause 12.1.3, and the Scheme shall be administered on the basis that the amendment originally made by deed is valid and effective pending the passing of any such resolution.
- 12.1.4 Where the Trustee considers that any amendment will have a material effect on the rights or obligations of an Employer, the Trustee shall give notice of that amendment to the relevant Employer (or, if applicable, the relevant Principal Employer) as soon as practicable after the amendment.
- 12.1.5 The Trustee shall comply with its disclosure obligations under the Pensions Act in respect of any amendment which would have a material impact on the rights or obligations of a Member. Any failure to give notice in accordance with this Clause shall not invalidate the amendment.

Plan Schedule

- 12.1.6 Subject to Clause 2 and to Clause 12.2 (Restrictions on amendment power), amendments to a Plan Schedule may be made in accordance with Clause 12.1.1 or Clause 12.1.2.
- 12.1.7 In addition to the Founder's power under Clause 12.1.1 and Clause 12.1.2 to amend a Plan Schedule, and to the Employer's power to vary contribution rates under Rule 2, an Employer may from time to time with the consent of the Trustee (and where it is proposed to change the Principal Employer, with the consent of the Employer assuming the role of Principal Employer) and subject to Clause 2 and Clause 12.2 (Restrictions on amendment power) amend in writing (in such form as the Trustee determines) its Plan Schedule(s) whether retrospectively or otherwise.

General

- 12.1.8 References in this Clause 12 to an amendment include any alteration, addition to, repeal or replacement of any provision of this Deed (including all or any part of the Schedules to it and any Plan Schedule).
- 12.1.9 Notwithstanding any other provision of this Clause 12, the Founder and the Trustee may, in the event that an error is identified in a Plan Schedule, issue a replacement Plan Schedule to correct the error.

12.2 Restrictions on amendment power

- 12.2.1 Subject to Clause 12.2.2. and unless any amendment is considered by the Trustee to be necessary and appropriate in order to ensure compliance with any statutory requirement, any amendment to a Plan Schedule requires the consent of the relevant Employer or Principal Employer and, where so required under the Plan Schedule, the consent of the relevant Member.
- 12.2.2 Any change to the Employer Fee or Annual Member Fee specified in a Plan Schedule shall be subject to the consent of the Founder.

- 12.2.3 No amendment shall result in any part of the Fund being payable to the Founder or an Employer provided that this restriction does not prevent the Founder receiving payment of fees and charges under Clause 4.5.8 or an Employer receiving a return of its contributions in respect of a Member under Rule 1.6.

12.3 Augmentation of benefits

- 12.3.1 Subject always to the status of the Scheme as an exempt approved scheme under Section 774 of the Taxes Act not being prejudiced, the Trustee may (with the consent of the Founder) and shall, at the direction of an Employer (with the consent of the Founder) and provided that the Employer arranges to the satisfaction of the Trustee the payment of any additional contributions which the Trustee determines (having obtained such actuarial advice, if any, as it deems appropriate) to be required, provide new or additional benefits, change the date of payment of any benefit, or increase any benefit for or in respect of any Member or other beneficiary.
- 12.3.2 The Trustee may not exercise the power under Clause 12.3.1 in a way which would increase the liability of an Employer to the Scheme without the consent of that Employer.
- 12.3.3 Where a payment under this Deed would otherwise exceed the limits set out by the Revenue Commissioners from time to time, the Trustee may pay such alternative benefits (whether to the person entitled to the excess payment or otherwise) as they may decide, provided that any such alternative benefits would not themselves exceed such limits. On payment of the alternative benefits, the Trustee and the Scheme shall be discharged from all liability in relation to the original benefit.

SCHEDULE 1 – INTERPRETATION

1. GENERAL INTERPRETATION

In this Deed:

- (a) unless the context otherwise requires, words in the singular shall include the plural, and vice versa, and words in the masculine, feminine or neuter gender shall include either or both of the others, and references to persons shall include corporations;
- (b) references to an enactment, or any regulation made under it, shall include a reference to any statutory modification or re-enactment.

2. DEFINITIONS

In this Deed the following words shall, unless the context otherwise requires, have the following meanings. Where these words are used in the Deed the first letter is capitalised to show the word is a defined term.

“Active Member” means an Employee who has joined the Scheme and is at the relevant time in service with an Employer.

“Additional Member Fee” means any additional fees payable by or in respect of a Member under Clause 4.5 (Expenses of the Scheme) as determined from time to time by the Trustee and the Founder in respect of services provided to or in respect of the Member which are not incorporated in the Annual Member Fee. The Trustee will notify the relevant Member of any such Additional Member Fee.

“Annual Member Fee” means the annual charge levied on each Member under Clause 4.5 (Expenses of the Scheme), being the amount specified in the relevant Plan Schedule or otherwise agreed by the Trustee and the Founder and notified in writing to the Member and their Employer, together with, where not already included in that amount, the charges relating to the investment management and investment administration of the assets under the Scheme relating to the relevant Member’s Personal Account or such other amount as the Founder and the Trustee determine in respect of those investment charges.

“Approved Scheme” means a scheme or arrangement which is an exempt approved scheme under Section 774 of the Taxes Act.

“ARF” means an Approved Retirement Fund as defined by Section 784A of the Taxes Act.

“Auditor” means the Auditor of the Scheme as described in Clause 4.2.

“Civil Partner” means a civil partner within the meaning of Section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and **“Civil Partnership”** shall have the meaning stated in that Act.

“Children” of a Member means the Member’s children (including any step-child or legally adopted child) who are accepted by the Trustee as such and who are living or, after their birth, any such child conceived but not born at the date of the Member death, and are:

- (a) under the age of 18 years;
- (b) under the age of 23 years and in receipt of full-time education or vocational training; or
- (c) for the time being in the opinion of the Trustee suffering from a mental or physical incapacity of a nature or degree which renders them unable to maintain themselves as independent adults,

and **“Child”** means any one of such Children.

"Clause" means a numbered paragraph of the Deed excluding the Schedules to it.

"Companies Act" means the Companies Act 2014.

"Deed" means the Deed to which this is Schedule 1, as from time to time amended, and includes all Schedules to it.

"Dependant" means in relation to a Member or former Member the Member's Spouse, Civil Partner or Child, or any other person who, in the opinion of the Trustee, is wholly or substantially dependent upon the Member for the ordinary necessities of life, or was so dependent immediately before the Member's death.

"Employee" means an employee who has entered into or works under, a contract of employment with an Employer, or has entered into or works under any other contract pursuant to which they have undertaken to do work or perform services personally for the Employer or who is a director of an Employer whose remuneration is not a receipt of a profession or accountable to another employer or company and who is resident for tax purposes in Ireland, or any other person or category of persons the Founder agrees, subject to compliance with Clause 2, may be treated as an Employee of an Employer.

"Employer" means, subject to Clause 9.2 (Employer ceasing to participate), any employer which is participating in the Scheme in accordance with Clause 9.1 (Participation by employers). Subject to Clause 8.2.1 (Powers of Employers) and Clauses 9.1.4 and 9.1.6 (Participation by employers), where the context so requires Employer means the Employer which, in relation to a Member, is their employer or was their employer on the date they left service.

"Employer Fee" means any fee payable by an Employer under Clause 4.5 (Expenses of the Scheme) as specified in the relevant Plan Schedule or Participation Agreement or under the General Rules or otherwise as agreed between the Trustee, the Founder and the relevant Principal Employer.

"Family Law Acts" means the Family Law Act 1995, the Family Law (Divorce) Act 1996, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, the Marriage Act 2015, the Family Law Act 2019 and respective related regulations as amended from time to time.

"Founder" means J & E Davy Unlimited Company or such replacement as Founder under Clause 10.

"Fund" means the pension fund constituted under the Deed and comprises the Personal Accounts and the Reserve Accounts.

"General Rules" means the Rules contained in Schedule 2 to the Deed together with any additions, alterations or modifications for the time being in force.

"Insolvency" means, in relation to an Employer or the Founder:

- (a) in the case of an unincorporated entity, its bankruptcy; and
- (b) in the case of a company, that:
 - (i) the company has ceased to carry on its business or substantially all of its business (otherwise than for the purposes of an amalgamation or reconstruction) or the company is deemed to be unable to pay its debts as and when they fall due within the meaning of Section 509 or Section 570 of the Companies Act; or
 - (ii) an order is made or an effective resolution is passed for the winding-up of the company (except in the case of a winding-up for the purposes of or pursuant to an amalgamation or reconstruction); or
 - (iii) a liquidator, receiver, examiner, administrative receiver, administrator, compulsory manager or other similar officer has been appointed in respect of

the company or in relation to the whole or a majority of the undertaking, revenues or assets of the company.

"Insurance Company" means an undertaking which is authorised or permitted by law to carry on the business of life assurance in Ireland.

"Member" means an individual who becomes a Member of the Scheme in accordance with Rule 1.2 and who has not ceased to be a Member in accordance with Rule 1.7.

"Minimum Pension Age" means the earliest age at which a Member is entitled to draw down benefits without prejudicing Revenue Approval of the Scheme.

"Normal Retirement Date" means in relation to a Member the Normal Retirement Date stated in the relevant Plan Schedule or such other date not being earlier than the 60th anniversary of birth nor later than the 70th anniversary of birth as the Employer may agree with the Member and notify to the Trustee.

"Participation Agreement" means the agreement entered into by an employer on its admission to the Scheme in accordance with Clause 9.

"Pensions Act" means the Pensions Act 1990, any statutory regulations made thereunder, and the European Union (Occupational Pension Schemes) Regulations 2021.

"Pension Adjustment Order" means an order under Section 12 of the Family Law Act 1995 or under Section 17 of the Family Law (Divorce) Act 1996.

"Personal Account" means the notional account maintained by the Trustee in relation to a Member in accordance with Rule 1.3 (Personal Accounts).

"Personal Fund Threshold Certificate" means a certificate issued by the Revenue Commissioners in accordance with Section 787P of the Taxes Act.

"Plan" means a plan relating to an individual Member. Each Plan shall be limited to a single Member unless the relevant Member's benefits under the Scheme are made the subject of a Pension Adjustment Order in which case the relevant Plan may also include the person or persons in whose favour the Pension Adjustment Order is granted.

"Plan Schedule" means the benefit terms applicable to a particular Plan as either scheduled to or otherwise forming part of the Participation Agreement executed by the Employer of the Member to whom the Plan relates on being admitted to the Scheme, as from time to time amended in accordance with Clause 12.

"Preserved Benefit" has the meaning set out in Part III of the Pensions Act.

"PRSA" means a personal retirement savings account as defined by Section 91 of the Pensions Act.

"Principal Employer" means the Employer stated as being the Principal Employer in relation to an Employer or group of Employers in the relevant Plan Schedule (as from time to time amended).

"Qualifying Absence" means absence due to:

- (a) temporary transfer to the employment of a company which is a subsidiary of or is associated in business with the Member's Employer;
- (b) illness, accident or other incapacity;
- (c) service, with the consent of the Employer, with the armed forces or other work of national importance for Ireland or any allied country including secondment to a Government Department;
- (d) undergoing full-time education approved by the Employer;

(e) any other reason to which the Employer consents, and

which the Employer determines and notifies to the Trustee in advance should be treated as Qualifying Absence **PROVIDED THAT** the period of absence does not exceed 60 months unless:

- (i) it is absence for one of the reasons listed in (b); or
- (ii) if the period of absence comes under (a), (c), (d) or (e), the period after 60 months' absence will only count as Qualifying Absence if the Founder and the Revenue Commissioners so agree.

"Relatives" means in relation to any Member:

- (a) their Spouse and former Spouses;
- (b) their and their Spouse's lawful or adoptive parents and grandparents and their Spouses;
- (c) such parents' and grandparents' children and descendants and their Spouses.

For the purposes of this definition, children and descendants in relation to an individual include legally adopted children and stepchildren and any other person for whom the Trustee believes that individual acted as a parent.

"Relevant Employment" has the same meaning given in the Pensions Act.

"Registered Administrator" has the meaning given in Clause 4.1.2.

"Reserve Accounts" means the accounts maintained by the Trustee which are credited in accordance with the Deed with funds or Scheme resources (including receivables or choses in action) which are not or have ceased to be allocated to any Member's Personal Account. With the consent of the Founder, the Trustee may maintain more than one Reserve Account and may consolidate any such Reserve Accounts at any time. Any reference in this Deed to a Reserve Account refers to the relevant Reserve Account as determined by the Trustee.

"Retirement Benefits Scheme" means a retirement benefits scheme as defined by Section 771 of the Taxes Act.

"Revenue Approval" means approval of the Scheme as an exempt approved scheme by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Act.

"Rules" mean the General Rules but incorporating any provisions of a Plan Schedule applicable to a Member (provided that in the event of a conflict between a Plan Schedule and the General Rules, the General Rules shall take precedence).

"Scheme" means the Davy Master Trust.

"Scheme Administrator" has the meaning given in Clause 4.1.1.

"Scheme Year" means [•] to the following [•] or such other dates as the Trustee shall select with the agreement of the Founder.

"Spouse" means in relation to any individual their wife or husband under a legally binding marriage or, if applicable, their widow or widower and, for the avoidance of doubt shall not include a "common law" partner. Spouse shall, for the purposes of this Deed also include the Civil Partner of an individual (except where otherwise stated) and any reference to marriage or equivalent shall include a Civil Partnership.

"Taxes Act" means the Taxes Consolidation Act 1997.

"Trustee" means Davy Pensioner Trustees Unlimited Company or such other trustee for the time being of the Scheme.¹

"Trustee Director" means in respect of a corporate body acting as trustee, any director of that Trustee.

¹ DPT will be replaced by a newly established designated activity company in due course.

SCHEDULE 2 – GENERAL RULES

1. ELIGIBILITY AND MEMBERSHIP

1.1. Eligibility

- 1.1.1. An Employee will be eligible to join the Scheme and become a Member on being notified in writing by the Employer.
- 1.1.2. The Founder may by notice in writing to the Trustee direct that, with effect from a specified date any individual (or class of individuals) is not eligible for membership of the Scheme.
- 1.1.3. The Founder may by notice in writing to the Trustee direct that membership of the Scheme shall be closed to new entrants with effect from a specified date.
- 1.1.4. The Founder may at any time by notice in writing to the Trustee revoke any direction under Rule 1.1.2 and reopen the Scheme to new entrants.

1.2. Joining

- 1.2.1. Subject to Rule 1.2.2 and unless the Founder agrees otherwise, an eligible Employee who wishes to join the Scheme must apply, in a form approved by the Trustee and the Founder from time to time, which shall constitute the Employee's agreement to be bound by and comply with the Rules.
- 1.2.2. Where an Employee is re-joining the Scheme under Clause 9.3.2 the Trustee may agree that the Member does not have to complete the full application process.
- 1.2.3. On receipt of a completed application, the Trustee shall admit an eligible Employee to membership of the Scheme with effect from the first day of the month coincident with, or if not coincident with, next following the date of receipt of the completed application or with effect from such other date as the Member may elect and notify the Employer and the Trustee.

1.3. Personal Accounts

- 1.3.1. The Trustee shall maintain a Personal Account in relation to each Member.
- 1.3.2. A Personal Account is a notional account maintained for a Member which is credited or debited with the contributions paid by or in respect of that Member and any transfer payment received in respect of the Member and any investment returns (positive or negative) on the assets under the Scheme relating to that Personal Account and from which is deducted any benefit payments, expenses or other payments attributable to or paid to or in respect of that Member.
- 1.3.3. Where a Member has more than one period of membership of the Scheme, the Trustee may, subject to Rule 1.3.4, maintain a separate Personal Account for that Member in respect of each such period of membership.
- 1.3.4. The Trustee with the consent of the Founder may consolidate one or more Personal Accounts in respect of a Member.
- 1.3.5. The link between a Member's Personal Account and the assets of the Scheme is notional only. In the event that the assets of the Scheme are invested in a way which does not match the investments which should be held in relation to a Member's Personal Account, the Member is not entitled to any increase in the value of the Scheme assets which may arise from the error, but is only entitled to the value of their Personal Account.

1.4. Opting out

- 1.4.1. With the consent of the Employer, an Active Member may opt out of the Scheme at any time in which case the Member shall be deemed to have left the service of their Employer.
- 1.4.2. Individuals who opt out of the Scheme in accordance with Rule 1.4.1 shall only be permitted to re-join the Scheme with the consent of the Employer and subject to such conditions (including the production of medical evidence and restrictions on benefits) as the Trustee may impose.

1.5. Leaving service

- 1.5.1. Every Active Member shall cease to be an Active Member:
 - (a) on ceasing to be an employee of the Employers, provided that at the direction of the Principal Employer the Trustee may with the agreement of the Revenue Commissioners maintain an employee as a Member for the purpose only of Rule 4 for a limited period the duration of which shall be approved by the Revenue Commissioners notwithstanding that such employee has left the service of the Employers;
 - (b) on opting out of the Scheme under Rule 1.4; or
 - (c) if the Revenue Commissioners specify that the retention of that Member would affect the approval of the Scheme as provided under Clause 1.3.
- 1.5.2. Where an Active Member leaves service under Rule 1.5.1 they shall, subject to Rule 1.5.5 and to any option exercised by the Member under Rule 1.5.3 or Rule 6.1, remain entitled to such portion of their Personal Account as may be specified in the relevant Benefit Annex. The Member shall be entitled to have their Personal Account or the specified portion of their Personal Account applied to provide benefits in accordance with Rule 3.1.2.
- 1.5.3. Where:
 - (a) a Member to whom Section 32A of the Pensions Act does not apply leaves service under Rule 1.5.1, the Trustee may, where permitted by legislation and unless the relevant Plan Schedule prohibits, pay to the Member the net realisable value, after deduction of Annual Member Fees or any other applicable expenses, of the part of the Member's Personal Account which relates to the Member's contributions to the Scheme or a prior Retirement Benefits Scheme in respect of which assets are included in the Member's Personal Account; or
 - (b) a Member to whom Section 32A of the Pension Act applies leaves service under Rule 1.5.1, the Trustee shall, at the request of the Member, pay a refund to the Member in accordance with Section 32A of the Pensions Act and any related guidance if applicable.

If a payment is made under either (a) or (b) above, the balance (if any) of the Member's Personal Account shall be returned to their Employer, after deduction of any Employer Fees owed by that Employer and the Scheme (including the Trustee and the Founder) shall be discharged of any further liability in relation to that Member **PROVIDED THAT** where a Member elects to take a refund of contributions to the Scheme in accordance with (a) above and the Trustee has previously accepted a transfer payment from another Retirement Benefits Scheme in respect of that Member, that part of the Member's Personal Account which relates to their former employer's contributions to the Retirement Benefit Scheme from which the transfer payment was accepted shall be transferred to the appropriate Reserve Account unless the Member elects, where so permitted by the Revenue Commissioners, to receive deferred benefits under the Scheme in respect of that element of the Member's Personal Account which relates to the transfer payment.

- 1.5.4. For so long as the Occupational Pension Schemes (Preservation of Benefits) Regulations 2002 apply to the Scheme, where an Active Member ceases to be an

employee of one Employer, but joins the service of another Employer with effect from a date within one month of such date of cessation and becomes a Member of their new Employer's section of the Scheme, they will be treated as not having left Relevant Employment.

- 1.5.5. A member who has left service under Rule 1.5.1 and who is entitled to a Preserved Benefit shall be entitled to have their Personal Account applied to provide benefits in accordance with Rule 3.1.2.

1.6. **Ceasing to be a Member**

A Member shall cease to be a Member when they are no longer entitled or prospectively entitled to a benefit under the Scheme.

2. **CONTRIBUTIONS**

2.1. **Members' contributions**

- 2.1.1. Each Active Member shall pay contributions at the rate set out in the relevant Plan Schedule or at such other rate or of such other amount as the Member may from time to time notify in writing to both the Employer and the Trustee.
- 2.1.2. An Active Member may make regular additional voluntary contributions or one or more special contributions to the Scheme. Any such voluntary contributions or special contributions will be credited to the Member's Personal Account.
- 2.1.3. Subject always to Clause 2, any Member who is not an Active Member may, with the consent of the Trustee:
- (a) pay voluntary or special contributions under Rule 2.1.2; or
 - (b) where Rule 5 applies, may pay arrears of contributions to the Scheme;
- on such terms as the Founder may agree.
- 2.1.4. Subject to any restrictions imposed by the Trustee regular voluntary contributions may be started, varied or terminated at any time by written notice to the Trustee in such form and at such time as the Trustee may require.
- 2.1.5. No Member shall in any calendar year pay contributions which (disregarding any contributions comprised in a transfer payment under Rule 6.2) in total exceed the maximum percentage of their remuneration for a person of their age allowed under Section 774(7) of the Taxes Act from time to time.
- 2.1.6. If at any time it appears that the amount of the Member's contributions are such that the benefits which might be secured by the application of their Personal Account, as projected by the Trustee, are likely to exceed the maximum benefits permitted by the Revenue Commissioners or would otherwise prejudice approval of the Scheme, that Member's contributions may be limited to such amount as the Trustee may prescribe.

2.2. **Employers' contributions**

- 2.2.1. The Employer of each Active Member shall pay contributions in relation to that Member at the rate specified in the relevant Plan Schedule or at such other rate as may be agreed between the Member and the Employer from time to time and notified in writing to the Trustee **PROVIDED THAT** the Employer's contributions in respect of each Member in its service as a whole shall be meaningful in the context of the total contributions paid by or in respect of those Members.

- 2.2.2. The Employer of an Active Member shall also pay to the Trustee an amount equal to the cost of any death benefits provided under Rule 4.1 (Life assurance benefits) including, for the avoidance of doubt, the cost of any loading or additional premium required by an Insurance Company which is insuring those death benefits in respect of that Member.
- 2.2.3. Subject to any limits imposed from time to time by the Founder and to Clause 2, an Employer may make such additional contributions in respect of a Member as it decides and notifies to the Trustee in writing.
- 2.2.4. An Employer shall pay contributions equal to any expenses it is required to pay under Clause 4.5.
- 2.2.5. The Trustee may agree to meet any of the contributions otherwise due from an Employer under this Rule from the Reserve Account.
- 2.2.6. Where required to do so by the Pensions Act, the Employer of an Active Member shall give or cause to be given to the Member and to the Trustee a written statement no less frequently than once a month, specifying both the total amount deducted from the Member's salary or wages and remitted to the Trustee on the Member's behalf and the total amount paid on behalf of or in respect of the Member to the Trustee in the preceding month, or in the period since the previous statement was given.

2.3. Arrangements for contributions

- 2.3.1. All contributions paid to the Scheme by or in respect of a Member shall be allocated to the Member's Personal Account or the appropriate Personal Account where the Member has more than one such Account.
- 2.3.2. Without being obliged to do so, or to carry out relevant checks, the Founder and the Trustee may agree that the Trustee will refuse to accept contributions paid by or in respect of a Member if in the opinion of the Trustee those contributions:
 - (a) are contributions which are, or are treated as, ordinary annual contributions for the purposes of the Taxes Act which may breach any limits set out in the Taxes Act;
 - (b) are not permitted to be paid at the election of the Member under Section 774(8) of the Taxes Act or allowed to be deducted in any year set out in Section 774(7) of the Taxes Act, where applicable; or
 - (c) are not contributions paid by or in respect of the Member by his Employer.
- 2.3.3. Each Member shall provide the Trustee with such information as it may request in order to confirm whether any contribution is of the nature specified in Rule 2.3.2.
- 2.3.4. No contributions shall be paid by or on behalf of a Member on or after the earliest to occur of the Member's date of retirement or of leaving service of the Employers, or the Member reaching age 75 or such later age as the Founder may approve.
- 2.3.5. Contributions shall be paid in cash unless the Trustee with the consent of the Founder agrees otherwise.
- 2.3.6. Where a payment is or has been made to the Trustee purporting to be a contribution but which does not qualify as a contribution under this Rule 2, that payment shall not be deemed a contribution to the Scheme and the Trustee shall refund it, but subject to deducting any tax, duty or levy which the Trustee is required by law to withhold or deduct from the payment, and to deducting any expenses relating to it. The Trustee may adjust such refund to take account of interest or investment returns in the Scheme.
- 2.3.7. If in any tax year the total pension contributions paid by or in respect of a Member (other than by their Employer) to all Approved Schemes exceed the maximum amount to which the Member is entitled to tax relief under Section 774(7) of the

Taxes Act, the Trustee shall take such steps as may be required under Clause 2 to deal with the excess contributions.

- 2.3.8. The Trustee may permit contributions to be paid to the Scheme using relief at source arrangements subject to Revenue Approval not being prejudiced.

3. MEMBER BENEFITS

3.1. Commencement of benefits

- 3.1.1. Where a Member:

- (a) retires at Normal Retirement Date; or
- (b) leaves the service of the Employers before Normal Retirement Date and without receiving benefits in accordance with Rule 3.1.2 or a refund of contributions in accordance with Rule 1.5.3;

the Member shall be entitled to claim benefits at Normal Retirement Date in accordance with Rule 3.1.4. If the Member does not claim benefits at Normal Retirement Date, he may subject to Clause 2 defer claiming them until such later date as he chooses (and in such circumstances the relevant Personal Account shall remain invested until benefits are claimed). Where a Member defers claiming benefits in pension form, he may elect to take a lump sum, subject to compliance with Clause 2.

- 3.1.2. If a Member leaves the service of the Employers before Normal Retirement Date and without receiving a refund of contributions in accordance with Rule 1.5.3 the Member may with the Trustee's consent elect to receive benefits:

- (a) at any time after reaching Minimum Pension Age (with the consent of the Employer where the Member is still in service); or
- (b) at any age before Minimum Pension Age provided the Trustee is satisfied
 - (i) having considered the opinion of a registered medical practitioner, that the Member is and will continue to be incapable of carrying on his occupation because of physical or mental impairment, and
 - (ii) that the Member has in fact ceased carrying on his occupation,

in accordance with Rule 3.1.4 **PROVIDED THAT** a Member may not start to receive benefits whilst remaining in the employment of their Employer unless they have reached their Normal Retirement Date.

- 3.1.3. If a Member remains in service with an Employer after Normal Retirement Date, the Member will be entitled to claim benefits in accordance with Rule 3.1.4 on the date they leave service or may, subject to Clause 2, defer claiming benefits until such later date as they choose. Where a Member defers claiming benefits in pension form, they may elect to take a lump sum, subject to compliance with Clause 2.

- 3.1.4. A Member may, by giving at least two months' written notice to the Trustee (or such shorter period as the Trustee may accept) in such form as the Trustee and the Founder require, request the Trustee to apply the Member's Personal Account or the appropriate part of their Personal Account to provide benefits in accordance with Rule 3.2 (Benefits to be provided) to or in respect of them. Any notice under this Rule 3.1.4 may not expire before the Member reaches the age at which they are entitled to claim benefits.

- 3.1.5. A Member is only entitled to require the provision of benefits under this Rule 3 if they have provided such information as the Trustee may require under Clause 5.1 (Personal details).

3.2. Benefits to be provided

- 3.2.1. Subject to any restrictions in the relevant Plan Schedule or any other restrictions as may from time to time be applied by the Founder after consulting and notifying the Trustee in advance, where a Member's benefits are to come into payment in accordance with Rule 3.1, their Personal Account or the appropriate part of their Personal Account (as the case may be) shall be applied in securing any one or more of the following benefits as the Member shall select by notice to the Trustee in such form as the Trustee and the Founder shall require but subject always to Clause 2 and Rule 3.2.2:
- (a) an annuity on the life of the Member, which may be of fixed or increasing annual amount and which may be expressed to be payable for a specified minimum period whether or not the Member survives until the end of that period;
 - (b) a lump sum immediately payable to the Member;
 - (c) an annuity on the life of a Dependant of the Member (other than a Child) which may be of fixed or increasing annual amount, beginning on or after the Member's death;
 - (d) an annuity or annuities on the life or lives of any one or more of the Member's Children, which may be of fixed or increasing annual amount, beginning on or after the Member's death and continuing (subject to the survival of the life or lives assured) until the Child or Children cease to be such; or
 - (e) any other benefit which will not prejudice the exempt approval of the Scheme under the Taxes Act.
- 3.2.2. The Trustee may provide any benefit to be secured under Rule 3.2.1 by:
- (a) payment out of the Member's Personal Account, but only to the extent that the benefit is immediately payable in lump sum form; or
 - (b) the purchase in the name of the Member or the relevant beneficiary of immediate or deferred non-assignable annuity contracts or other suitable policies.
- 3.2.3. As an alternative to the application of part or all of the Member's Personal Account in accordance with Rule 3.2.1, the Trustee may pay, at the option of a Member entitled to so elect under Section 772 of the Taxes Act, an amount determined in accordance with the provisions of Section 772 to the Member or to an ARF and such transfer shall completely discharge the Trustee of all liability in respect of the amount of the Member's Personal Account so applied.
- 3.2.4. Where an annuity is to be purchased for or in respect of a Member it shall be purchased from an Insurance Company selected by the Member by notice to the Trustee. The Trustee shall not be liable in any way for the selection of the Insurance Company by the Member. Any such policy or contract will be in the name of the Member or other relevant beneficiary unless the Trustee and Founder agree otherwise. On the purchase of any such annuity, the Scheme (including the Trustee and the Founder) shall be discharged from any further liability to or in respect of the Member (or, where appropriate, from any further liability for that part of their Personal Account which was used to purchase the annuity).
- 3.2.5. A Member shall be entitled at any time by notice in writing to the Trustee to surrender irrevocably any option or right under which they may elect to commute any benefit payable under the Scheme for a lump sum.

4. BENEFITS ON DEATH

4.1. Life assurance benefits

- 4.1.1. Where under the relevant Plan Schedule a life assurance benefit is provided on the death of a Member, the Trustee shall provide the benefit as specified in that Plan Schedule. Any such benefit which is in the form of a lump sum shall be paid by the Trustee in accordance with Clause 5.4 (Payment of lump sum death benefits).
- 4.1.2. The Trustee is only liable to provide a benefit under this Rule to the extent that it receives the proceeds from the relevant insurance policy to meet that benefit.

4.2. Benefits on death of a Member

- 4.2.1. Subject to this Rule 4 and any restrictions as may from time to time be applied by the Founder after consulting with and notifying the Trustee in advance, on the death of a Member the Trustee shall use the Member's Personal Account or Personal Accounts (or the appropriate part of their Personal Account or Personal Accounts, as the case may be) to provide such lump sum or annuity benefits in respect of the Member as it shall in its absolute discretion determine, provided that any such benefits must not exceed the maximum benefit permitted, or otherwise conflict with the conditions for the exempt approval of the Scheme.
- 4.2.2. Subject to Section 30(3) of the Pensions Act, any lump sum payable under this Rule shall be paid by the Trustee in accordance with Clause 5.4 (Payment of lump sum death benefits).

4.3. Dependant's annuity

- 4.3.1. An annuity provided for a Dependant in respect of a Member under either Rule 4.1 or Rule 4.2 shall comply with the provisions of this Rule 4.3 and any additional provisions specified in the relevant Plan Schedule.
- 4.3.2. An annuity for or in respect of a Dependant shall be provided by the purchase of a policy or annuity contract with an Insurance Company selected by the Trustee in its absolute discretion. Any such policy will be in the name of the Dependant, unless the Trustee determines otherwise. On the purchase of any such annuity, the Scheme (including the Trustee and the Founder) shall be discharged from any further liability to or in respect of the Dependant (or, where appropriate, liability for that part of the Member's Personal Account which was used to purchase the annuity).
- 4.3.3. As an alternative to purchasing a policy or annuity contract in respect of a Dependant in accordance with Rule 4.3.2, the Trustee may, to the extent permitted by the Taxes Act and subject to the agreement of the Dependant, make a transfer payment to an ARF established by such Dependant.

5. QUALIFYING ABSENCE

5.1. Statutory Leave

Notwithstanding any other provision of this Deed, but subject to Rule 5.2, the Trustee will operate the Scheme to comply with:

- 5.1.1. sections 81A and 81B of the Pensions Act;
- 5.1.2. the Maternity Protection Acts 1994 and 2004;
- 5.1.3. the Adoptive Leave Acts 1995 and 2005;
- 5.1.4. the Parental Leave Acts 1998 and 2019;
- 5.1.5. the Carer's Leave Act 2001;
- 5.1.6. the Paternity Leave and Benefit Act 2016; and

- 5.1.7. any other legislation dealing with absence on leave by an Employee but, unless the Employer with the consent of the Trustee decides otherwise, only to the extent required under those Acts.
- 5.2. The Employers shall provide the Trustee with all necessary notifications and information concerning their Employees who are Members to enable the Trustee to comply with the provisions of Rule 5.1.
- 5.3. **Qualifying Absence**
- 5.3.1. This Rule covers periods of absence from work by a Member where:
- (a) there is a reasonable expectation on the part of the Employer that the Member will return to work (other than where absence is due to illness, accident or other incapacity); and
 - (b) the absence is Qualifying Absence.
- 5.3.2. During any period of absence under Rule 5.3.1, and subject to Clause 2, the Member will be treated as remaining an Active Member for so long as:
- (a) the Member or their Employer continues to pay any Member contributions under Rule 2.1 (Members' contributions); or
 - (b) the Employer continues to pay any contributions due in respect of the Member from the Member's Employer under Rule 2.2 (Employers' contributions).
- 5.3.3. Subject to Rule 5.3.4, if contributions are not paid in accordance with Rule 5.3.2, the Member will (unless the Trustee agrees otherwise), be treated as having ceased to be an Active Member for the period of the Qualifying Absence but shall not, unless the Pensions Act provides otherwise, leave Relevant Employment and shall remain a Member of the Scheme.
- 5.3.4. Subject to Rule 5.3.5, where this Rule 5 applies to a Member, the Member's Employer may at any time at its discretion decide that the Member shall cease to be an Active Member for the period of Qualifying Absence.
- 5.3.5. A Member to whom Rule 5.3.3 applies will continue to be treated as an Active Member for the purpose of entitlement to benefits under Rule 4.1 (Life assurance benefits) for such period as their Employer may decide and notify to the Trustee, to the extent that and on the terms that the benefits under Rule 4.1 continue to be insured in respect of the Member under the terms of the relevant insurance policy.
- 5.3.6. Where a Member returns to work following a period of Qualifying Absence during which the Member or, where applicable, their Employer did not pay Member Contributions under Rule 2.1 (Members' contributions), the Member or, where applicable, their Employer may pay arrears of contributions relating to the period of Qualifying Absence.
- 5.3.7. If
- (a) a Member does not return to work at the end of a period of Qualifying Absence or his absence is for a reason other than Qualifying Absence, or
 - (b) the Member's Employer determines that they are no longer expected to return to work,
- they shall then be treated as having left service on the date on which the Member's absence commenced.
- 5.4. The Employers shall notify the Trustee in advance (or as soon as reasonably practicable if notification in advance is not possible in the circumstances) and provide it with all necessary information concerning any of its Employees who are Members and who are absent from work for a period of Qualifying Absence in order to enable the Trustee to comply with Clause 5.3.

6. TRANSFERS

6.1. Transfers out

- 6.1.1. A Member may exercise any right they have under Section 34 of the Pensions Act and require the Trustee to transfer the value of his Personal Account to such one or more arrangements as they select.
- 6.1.2. A Member may, with the consent of the Trustee, require a transfer of their Personal Account, or the appropriate part of their Personal Account where they are not entitled to the Employer contribution element, other than in accordance with Section 34 of the Pensions Act to such one or more arrangements which they select.
- 6.1.3. Subject to complying with the requirements of any legislation and any restrictions or conditions imposed by the Revenue Commissioners, the transfer may be made to another exempt approved scheme, to an approved buy-out bond, to a PRSA or to an overseas arrangement which where relevant is willing to accept that transfer.
- 6.1.4. A transfer application may be withdrawn at any time before the Trustee makes or becomes bound to make a transfer payment.
- 6.1.5. Following a transfer in accordance with this Rule 6.1 the Scheme (including the Trustee and the Founder) shall be discharged from all liability to which the transfer relates.
- 6.1.6. Subject to complying with the requirements of any legislation, the Trustee may make a transfer payment without the consent of the Member or Members to whom it relates.
- 6.1.7. The Trustee shall, in respect of each Member concerned, notify the person or persons to whom a transfer is made under this Rule 6.1 of the information needed to administer the transfer and any benefits payable in respect of it in accordance with the Pensions Act and with any requirements imposed by the Revenue Commissioners under the Taxes Act.
- 6.1.8. The Trustee may agree the terms upon which the person or persons to whom a transfer under this Rule is made apply the assets transferred.
- 6.1.9. For the avoidance of doubt, no transfer shall be made which would prejudice Revenue Approval of the Scheme.

6.2. Transfers in

- 6.2.1. If any Member or prospective Member has rights under another Approved Scheme or contract with an Insurance Company approved by the Revenue Commissioners or a PRSA or an overseas pension scheme (within the meaning of Section 770 of the Taxes Act) which is an Approved Scheme, the Trustee may, and shall if required by law to accept such a transfer, receive a transfer payment from such scheme or arrangement, or an assignment of the policy concerned or the surrender value of the policy concerned.
- 6.2.2. On receipt of a transfer or assignment under this Rule the amount received shall be credited to the Personal Account of the Member, where they have one, or to a new Personal Account, where they do not, and in each case shall be dealt with in accordance with the Plan Schedule applicable to the Member concerned.
- 6.2.3. Any transfer under this Rule shall be in cash or in such other form as the Trustee may agree.
- 6.2.4. The Trustee may accept transfers relating to a single person or more than one person under this Rule.
- 6.2.5. A transfer payment received in respect of any Member shall be treated as representing contributions to the Scheme paid by or on behalf of that Member.

- 6.2.6. On accepting any transfer payment, the Trustee shall endeavour to obtain all the information which is needed to enable the Trustee to administer the transfer payment and the benefits provided in respect of it in accordance with Clause 2.
- 6.2.7. If a transfer payment is offered to the Trustee in respect of any Member subject to conditions as to the way in which it is to be administered or as to the benefits to be provided in respect of it, the Trustee may undertake to comply with those conditions. Notwithstanding any other provision of these Rules, the Trustee shall observe that undertaking and no Member shall be entitled to any benefit which, if granted, would breach that undertaking.
- 6.2.8. For the avoidance of doubt, all transfer payments received shall be dealt with on a defined contribution basis and the Trustee shall not accept any transfer if such acceptance would prejudice Revenue Approval of the Scheme.

7. NO CLAIM EXCEPT UNDER DEED OR RULES

No person, whether a Member or not, shall have

- (a) any claim, right or interest upon, to or in respect of the Fund or any contributions to, or interest on, the Fund, or
- (b) any claim upon or against the Trustee, the Founder or the Employers in relation to the Scheme,

except under and in accordance with the provisions of the Scheme.

8. EXCESS PROCEEDS

In any circumstance not otherwise provided for under these Rules, if by reason of Clause 2 or otherwise any part of a Member's Personal Account remains after the full provision of benefits for that Member under these Rules, the balance remaining shall be transferred to and held by the Trustee as part of the Reserve Account.

IN WITNESS WHEREOF this Deed was duly executed and delivered by the parties hereto the day and year first herein written.

Given under the Common Seal of)

J & E DAVY UNLIMITED COMPANY)

And this deed was delivered:)

)

)

.....)

Director)

.....)

Director/Secretary)

SEAL

Given under the Common Seal of)

DAVY PENSIONER TRUSTEES)
UNLIMITED COMPANY)

And this deed was delivered:)

)

.....)

Director)

.....)

Director/Secretary)

SEAL