

**IN THE ROYAL COURT OF THE ISLAND OF JERSEY**  
(Samedi Division)

IN THE MATTER OF

NATIONAL PROVIDENT LIFE LIMITED

- and -

IN THE MATTER OF

PEARL ASSURANCE PLC

AND IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLE 27 OF AND  
SCHEDULE 2 TO THE INSURANCE BUSINESS (JERSEY) LAW 1996

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SCHEME

(pursuant to Article 27 of and Schedule 2 to the Insurance Business (Jersey) Law 1996  
for the transfer of part of the business of (1) National Provident Life Limited  
to (2) Pearl Assurance plc

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## 1. Interpretation

### Definitions

- 1.1. In this scheme (the "**Jersey Scheme**"), unless inconsistent with the subject or context, the following expressions bear the meanings respectively set opposite them:

"**Asset**" means any assets and property of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, that are owned, leased or licensed by the Transferor (and comprised within the Transferred Business) including all rights, benefits and powers of the Transferor under any contract and all rights, including any right to repayment or recovery of tax relating to the Transferred Business or to the transfer thereof, claims and powers of the Transferor against any third party and including (for the avoidance of doubt) any such asset or property to which legal title is held by another party, provided that the Transferor has an interest in such assets or property, including beneficial ownership of such assets or property;

"**Excluded Jersey Assets**" means all Excluded Assets whatsoever and wheresoever situated relating to the Transferred Jersey Business other than the Transferred Jersey Assets and the Residual Jersey Assets;

"**Excluded Jersey Liabilities**" means all liabilities whatsoever of the Transferor in relation to the Transferred Jersey Business other than the Transferred Jersey Liabilities and the Residual Jersey Liabilities;

"**Excluded Jersey Policies**" means any Jersey Policies in respect of which, as at the Jersey Transfer Date and for so long as, the approval of the Royal Court to the transfer of such Jersey Policies pursuant to this Jersey Scheme has not been granted and become effective in accordance with the terms of this Jersey Scheme;

"**Jersey Law**" means the Insurance Business (Jersey) Law 1996;

"**Jersey Order**" means an order made by the Royal Court pursuant to Article 27 of, and Schedule 2 to, the Jersey Law sanctioning this Jersey Scheme and any subsequent order made by the Royal Court in relation to this Jersey Scheme;

"**Jersey Transfer Date**" means the time and date ascribed to it in paragraph 5.1 of this Jersey Scheme;

"**Liabilities**" any debts or liabilities (whether direct, indirect, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due) including all liability to taxation and including all costs and expenses relating thereto;

"**Residual Jersey Asset**" means in relation to the Transferor:

(A) any property of the Transferor comprised in or relating to the Transferred Jersey Business (including any right, benefit or power of the Transferor under any Transferred Jersey Policy):

(1) the transfer of which to Pearl pursuant to this Jersey Scheme (and which on the Jersey Transfer Date has not already been transferred pursuant to the UK Scheme) requires, on the Jersey Transfer Date, either:

(a) the consent of any person (other than Pearl or the Royal Court); or

(b) the waiver by any person of any right to acquire, or be offered the right to, or to offer to, acquire or procure the acquisition by some other person of, all or any part of such property, being a right

which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect,

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

- (2) which the Royal Court either does not have the jurisdiction to transfer pursuant to Article 27 of, and Schedule 2 to, the Jersey Law (either at all or free of such right as is mentioned in (A)(1)(b) of this definition) or which (despite having such jurisdiction) the Royal Court determines, notwithstanding Article 27 of, and Schedule 2 to, the Jersey Law, not so to transfer;
- (B) any other property of the Transferor attributable to the Transferred Jersey Business (including any right or benefit under a Transferred Jersey Policy) where the Transferor and Pearl agree that its transfer should be delayed;
- (C) any other interest of the Transferor in any property or any agreement relating to any property which the Transferor and Pearl shall agree prior to the Jersey Transfer Date is more conveniently to be transferred pursuant to this Jersey Scheme in conjunction with any property referred to in paragraphs (A) or (B) of this definition;
- (D) any property of the Transferor attributable to the Transferred Jersey Business which cannot be transferred to or vested in Pearl on the Jersey Transfer Date for any other reason;
- (E) any other property of the Transferor attributable to the Transferred Jersey Business (including any right or benefit under a Transferred Jersey Policy) in respect of which the Royal Court makes an order as to the enforceability of an interest or right, unless the Transferor and Pearl agree prior to the Jersey Transfer Date that it is to transfer on the Jersey Transfer Date; and
- (F) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, earned or received from time to time after the Jersey Transfer Date earned in respect of any such property referred to in paragraphs (A) to (E) of this definition;

but excluding, for the avoidance of doubt, the Excluded Jersey Assets;

**"Residual Jersey Liability"** means any liability whatsoever of the Transferor comprised in or relating to the Transferred Jersey Business (other than under an Excluded Jersey Policy):

- (A) that is attributable to or connected with a Residual Jersey Asset or a Residual Jersey Liability and exists or arises at any time before the Subsequent Transfer Date applicable to that Residual Jersey Asset; or
- (B) the transfer of which to Pearl pursuant to this Jersey Scheme requires, as at the Jersey Transfer Date, the consent or waiver of any person (other than the Transferor, Pearl or the Royal Court) and which the Royal Court either does not have the jurisdiction to transfer pursuant to Article 27 of, and Schedule 2 to, the Jersey Law or which (despite having such jurisdiction) the Royal Court determines, notwithstanding Article 27 of, and Schedule 2 to, the Jersey Law, not so to transfer;

- (C) the transfer of which the Transferor and Pearl agree prior to the Jersey Transfer Date is to be delayed; or
- (D) which is attributable to or connected with a Residual Jersey Asset or a Residual Jersey Liability of the Transferor referred to in paragraphs (A) to (C) of this definition that has arisen or arises at any time before the Subsequent Transfer Date applicable to that Residual Jersey Asset or Residual Jersey Liability,

but excluding, for the avoidance of doubt, the Excluded Jersey Liabilities;

**"Royal Court"** means the Royal Court of Jersey;

**"Subsequent Transfer Date"** has the same meaning ascribed to it under the UK Scheme except that any reference in the definition of "Subsequent Transfer Date" to "Transfer Date" shall be read to mean "Jersey Transfer Date", any reference to "Residual Asset" shall be read to mean "Residual Jersey Asset", any reference to "Residual Liability" shall be read to mean "Residual Jersey Liability", any reference to "Court" shall be read to mean "Royal Court" and any reference to "Order" shall be read to mean "Jersey Order";

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

**"Transferred Jersey Assets"** means all of the Transferred Assets whatsoever and wheresoever situated as at the Jersey Transfer Date relating to the Transferred Jersey Business but excluding any Residual Jersey Asset, the Excluded Jersey Assets and any rights, benefits and powers under the Excluded Jersey Policies;

**"Transferred Jersey Business"** means all or any of the Transferred Business carried on in or from within Jersey immediately prior to the Jersey Transfer Date including in each case all activities carried on in connection with such business;

**"Transferred Jersey Liabilities"** means the Transferred Liabilities in relation to the Transferred Jersey Business but excluding the Residual Jersey Liabilities, and any liabilities under or relating to the Excluded Jersey Policies.

**"Transferred Jersey Policies"** means every Transferred Policy which is a Jersey Policy under which any liability remains unsatisfied or outstanding as at the Jersey Transfer Date but excluding the Excluded Jersey Policies; and

**"UK Scheme"** means the insurance business transfer scheme pursuant to Part VII of the Financial Services and Markets Act 2000 for, inter alia, the transfer of certain long term insurance business of the Transferor to Pearl, a copy of which is contained in the Schedule to this Jersey Scheme, as it may be varied or amended from time to time in accordance with its terms.

- 1.2. Other words and expressions used as defined terms shall bear the meanings given to them in the UK Scheme.
- 1.3. Subject to paragraph 1.2 above and except where the context requires otherwise, words and expressions used in the Jersey Law or in any regulations made under it shall have the same meanings in this Jersey Scheme.

#### **Headings**

- 1.4. Headings in this Jersey Scheme are inserted for convenience only and shall not affect its construction.

## References

- 1.5. Any reference in this Jersey Scheme to "the incorporated terms of the UK Scheme" shall be read to mean "the same terms as the terms of the UK Scheme as incorporated into this Jersey Scheme" in accordance with section 3 of this Jersey Scheme.
- 1.6. Any reference in this Jersey Scheme to an enactment, statutory provision or regulations shall be deemed to include a reference to the enactment or statutory provision or those regulations as from time to time amended, consolidated, modified, replaced or re-enacted by any statute or statutory provision.
- 1.7. Any reference to the singular includes a reference to the plural and vice versa. Any reference to he, she or it includes the others.
- 1.8. Any reference to a time of day is a reference, unless otherwise expressly specified, to London time.
- 1.9. Any reference to this Jersey Scheme shall include the Schedule hereto.

## 2. Introduction

- 2.1. The Transferor was incorporated in England and Wales on 1 October 1998 and is a "UK authorised person" as defined in section 178(4) of FSMA.
- 2.2. The Transferor has carried on long term insurance business in the UK and in or from within Jersey.
- 2.3. The Transferor holds a Category A permit to conduct insurance business under the Jersey Law.
- 2.4. It is proposed that, by Order of the Royal Court in accordance with Article 27 of, and Schedule 2 to, the Jersey Law, this Jersey Scheme shall become operative on the Jersey Transfer Date so that on and with effect from the Jersey Transfer Date the Transferred Jersey Business shall be transferred to Pearl on the same terms as the terms of the UK Scheme governing the transfer of the Transferred Business to Pearl and as if the Transferred Jersey Business were part of the Transferred Business as defined in the UK Scheme.
- 2.5. The UK Scheme has the effect that:
  - (a) if the transfer of any Transferred Jersey Policies is sanctioned by the Royal Court pursuant to this Jersey Scheme with effect from the Jersey Transfer Date, such Policies shall be treated for all purposes of the UK Scheme as if they were Transferred Policies of the Transferor with effect from the Transfer Date and, to the extent necessary to comply with Part VII of the Financial Services and Markets Act 2000, shall also be transferred pursuant to the terms of the UK Scheme; and
  - (b) if the Royal Court does not sanction the transfer of any Transferred Jersey Policies pursuant to this Jersey Scheme, despite having the jurisdiction to do so, or if this Jersey Scheme is sanctioned by the Royal Court but the transfer of any Transferred Jersey Policies does not become effective by the Jersey Transfer Date, then such Policies shall, with effect from the Jersey Transfer Date, be deemed to be Excluded Policies under the UK Scheme and shall be reinsured by Pearl as Excluded Policies as provided for under the terms of the UK Scheme. Such Policies shall cease to be Excluded Policies under the UK Scheme, and shall cease to be so reinsured to Pearl, on the relevant Subsequent Transfer Date.
- 2.6. The Transferor and Pearl have agreed to appear by Counsel at the hearing of the Representation to sanction this Jersey Scheme and undertake to be bound thereby and to execute all such documents and to do all such acts and things as may be necessary or

expedient to be executed or done by it for the purposes of giving effect to this Jersey Scheme.

### **3. Incorporation of the UK Scheme**

- 3.1. The terms of the UK Scheme shall apply to the Transferred Jersey Business, Transferred Jersey Policies, Transferred Jersey Assets, Transferred Jersey Liabilities, Excluded Jersey Policies, any Residual Jersey Asset and Residual Jersey Liabilities in the same manner as they apply to the Transferred Business, Transferred Policies, Transferred Assets, Transferred Liabilities, Excluded Policies, Residual Assets and Residual Liabilities and, save as otherwise set out in sections 1 to 6.3 (inclusive) of this Jersey Scheme, the terms of the UK Scheme shall be deemed to be part of this Jersey Scheme as if reproduced herein *mutatis mutandis*.
- 3.2. This Jersey Scheme is ancillary to the UK Scheme and is intended to transfer business carried on in or from within Jersey and assets and liabilities relating to such business that would not otherwise transfer under the UK Scheme. Nothing in this Jersey Scheme shall operate so as to prevent or conflict with any transfer provided for by the UK Scheme.

### **4. Transfer of Business**

- 4.1. On the Jersey Transfer Date, the Transferred Jersey Business, the Transferred Jersey Assets and Transferred Jersey Liabilities shall be transferred to and be vested in Pearl, by Order of the Royal Court and without any further act or instrument, and shall be treated as if they were Transferred Business, Transferred Assets and Transferred Liabilities on the incorporated terms of the UK Scheme.
- 4.2. On the Jersey Transfer Date, all rights and obligations whatsoever of the Transferor subsisting on the Jersey Transfer Date under or by virtue of the Transferred Jersey Policies shall be transferred to Pearl under this Jersey Scheme on the incorporated terms of the UK Scheme governing the transfer of Transferred Policies to Pearl. Every person who is a holder of any Transferred Jersey Policies shall on and from the Jersey Transfer Date become entitled, to the exclusion of any rights which he may have had against the Transferor, to the same rights against Pearl as were available to him against the Transferor under such Policies.
- 4.3. The Excluded Jersey Policies shall, pending their transfer to Pearl (whether pursuant to this Jersey Scheme or otherwise) remain Liabilities of the Transferor but, subject to paragraph 4.4, shall at all times after the Jersey Transfer Date be reinsured in their entirety into Pearl on terms consistent with those described in the UK Scheme.
- 4.4. On and from each Subsequent Transfer Date, each Excluded Jersey Policy to which such Subsequent Transfer Date applies and all the Assets and Liabilities relating to such Policy shall, to the extent not previously transferred by Order of the Royal Court and without any further act or instrument be transferred to, and be vested in, Pearl, whereupon it shall constitute a Transferred Policy under the UK Scheme.
- 4.5. Any mandate or other instruction in force on the Jersey Transfer Date in respect of any of the Transferred Jersey Policies or Excluded Jersey Policies shall, on and from the Jersey Transfer Date, continue to be in force as an effective authority to Pearl (in respect of any Excluded Jersey Policies, as agent of the Transferor) on the incorporated terms of the UK Scheme.
- 4.6. If any asset of the Transferor proposed to be transferred pursuant to this Jersey Scheme is not, or is not capable of being, immediately transferred on the Jersey Transfer Date by the Order of the Royal Court by reason of such an asset being a Residual Jersey Asset or for any other reason, the Transferor shall, on and from the Jersey Transfer Date, hold such asset as trustee and on trust absolutely for Pearl (save to the extent that giving effect to such a trust would have the effect of transferring any interest falling within paragraph (A)

or (B) of the definition of Residual Jersey Asset) on the incorporated terms of the UK Scheme.

- 4.7. On and from the Jersey Transfer Date (or, in respect of any Residual Jersey Asset or Residual Jersey Liabilities, on and from the relevant Subsequent Transfer Date), any proceedings which are pending by or against the Transferor in connection with the Transferred Jersey Policies, the Transferred Jersey Assets, the Transferred Jersey Liabilities or the Transferred Jersey Business shall be continued by or against Pearl on the incorporated terms of the UK Scheme.
- 4.8. With effect from the Jersey Transfer Date, until the relevant liability is transferred to Pearl, Pearl shall discharge on behalf of the Transferor each Residual Jersey Liability (to the extent not reinsured to Pearl under an Excluded Policies Reinsurance Agreement) and any other claim arising under the Transferred Jersey Policies and the Excluded Jersey Policies or otherwise in connection with the Transferred Jersey Business (other than regulatory capital costs), together with any reasonable costs, claims, charges and other liabilities reasonably incurred by the Transferor in connection with the foregoing.
- 4.9. Where such Residual Jersey Liabilities are the subject of a policy of indemnity insurance or a claim or right of recovery of the Transferor against a third party which constitutes a Residual Jersey Asset, the undertaking in paragraph 4.8 shall apply only to the extent that the Transferor, having made a claim under such a policy or against such third party, shall have failed to recover any such amount pursuant to rights it may have under such policy, claim or right of recovery (having used all reasonable endeavours to do so), provided, always, that the Transferor shall:
- (a) promptly notify Pearl of the existence of such a right of recovery upon becoming aware of it; and
  - (b) pay to Pearl, as soon as reasonably practicable after receipt, an amount equal to the amount recovered from the third party after deduction of any costs and expenses reasonably incurred by that Transferor in attempting to recover from a third party in accordance with this paragraph 4.9.

## 5. Jersey Transfer Date

- 5.1. This Jersey Scheme shall become operative upon, and the Jersey Transfer Date shall occur simultaneously with, the last of the following two conditions being met, namely,
- (a) the Order by the Royal Court sanctioning this Jersey Scheme being made; and
  - (b) the UK Scheme in relation to the Transferred Business of the Transferor becoming operative in accordance with its terms.
- 5.2. Unless the Jersey Transfer Date has occurred at 11.59pm on 31 May 2010 or such later date, if any, as the Royal Court may allow on application of the Transferor and Pearl, this Jersey Scheme shall lapse.

## 6. Modification of this Jersey Scheme

- 6.1. The Transferor and Pearl may at any time before the Jersey Transfer Date consent for and on behalf of the persons bound by this Jersey Scheme to any modification or addition to any part of this Jersey Scheme except the Schedule to this Jersey Scheme (modifications or additions to which shall be governed by the terms of the UK Scheme) or to any further condition or provision effecting the same that the Royal Court may approve or impose.
- 6.2. Subject to paragraph 6.3, the Transferor and Pearl shall at any time after the sanction of this Jersey Scheme be at liberty to apply to the Royal Court for consent to amend its terms. If such consent is granted, the Transferor or Pearl may amend the terms of this Jersey Scheme in accordance with such consent.

- 6.3. The consent of the Royal Court shall not be required in relation to minor and/or technical amendments to the terms of this Jersey Scheme (including amendments to correct manifest errors) that are agreed by the Transferor and Pearl, provided that the Jersey Financial Services Commission has been notified of the proposed amendments and has indicated that it does not object thereto. If such confirmation of non-objection is obtained, Pearl may amend the terms of this Jersey Scheme in accordance with such consent.

7. **Governing Law**

- 7.1. This Jersey Scheme shall be governed by and construed in accordance with Jersey law.

**SCHEDULE**

**UK Scheme**