

**DATED: May, 2015**

**STM FIDECS PENSION TRUSTEES LIMITED**

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**DEFINITIVE TRUST DEED AND RULES**

**THE STM PROTECTED  
RETIREMENT PLAN (GIB)**

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**May 2015**

**THIS DECLARATION OF TRUST** is made this 6th day of May 2015.

By **STM FIDECS PENSION TRUSTEES LIMITED** whose registered office is situate at Montagu Pavilion, 8 – 10 Queensway, Gibraltar (“the Initial Trustees”).

**WHEREAS:-**

The Trustees have decided to establish a pension plan to be known as The STM Protected Retirement Plan (GIB) (the “Plan”) for individuals requiring pension provision (“the Members”).

**NOW THIS DEED WITNESSETH** as follows:-

1. The Initial Trustees hold the sum of £100 on the trusts hereby declared (the “Initial Contribution”).
2. The Initial Trustees **HEREBY DECLARE** the existence of the Plan and of the Trust Fund.
3. The Initial Trustees **HEREBY IRREVOCABLY DECLARE** that they shall henceforth hold the assets of the Trust Fund comprising the Initial Contribution and all Members’ contributions and other moneys including accruals to be paid to the Trust Fund on trust for the purpose of providing Relevant Benefits to the Members of the Plan in accordance with the Rules annexed hereto in the First Schedule as amended from time to time.
4. The Initial Trustees **HEREBY DECLARE** that the provisions of this Deed, the Rules and the Schedules shall comprise the entire provisions of the Plan.
5. This Deed and the Rules shall be interpreted and construed in accordance with the laws of Gibraltar.

**IN WITNESS** whereof these presents have been executed the day and year first before written.

**THE COMMON SEAL of STM  
FIDECS PENSION TRUSTEES  
LIMITED** was hereunto affixed in the presence of:-

Director: David Easton

Director: Elizabeth Plummer

**FIRST SCHEDULE**  
**The RULES**  
of  
**THE STM PROTECTED RETIREMENT PLAN (GIB)**

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# FIRST SCHEDULE

## THE RULES

### SECTION 1 - GENERAL PROVISIONS OF THE PLAN

#### 1.1 Introduction

It is intended that the Plan will:-

- (a) be capable of treatment as an Exempt Approved Plan for the purposes of the Income Tax Act, its subsidiary regulations and statutory modification or re-enactment thereof for the time being in force;
- (b) comply with any preservation requirements as may be required by any act enactment or resolution of the Gibraltar Parliament in respect of Members who leave the Plan prior to becoming entitled to immediate benefits;
- (c) comply with any requirements as to equal access for men and women as may be required by any act enactment or resolution of the Gibraltar Parliament.

To the extent the succeeding sections of these Rules lay down the details to give effect to paragraphs (a),(b) and (c) above then the succeeding sections of these Rules will override the general provisions of paragraphs (a), (b) and (c) above .

The Plan is established under a single irrevocable trust. Each member must enter into a binding agreement by deed with the Administrator not to require withdrawal of trust funds or income of those trust funds otherwise than for the payment of benefits under the Plan at the time and in the form and in the circumstances provided by the Rules.

#### 1.2 Commencement

The Plan commenced on the commencement date as specified in Section 1.3

### 1.3 Definitions

In these Rules the words and expressions following will unless inconsistent with the subject or context have the following meanings:-

**ACCOUNTING DATE** means 30th June in each year (or such other date as the Trustees with the consent of the Administrator may from time to time decide).

**ADMINISTRATOR** means the person or company appointed to act as Administrator of the Plan under the provisions of Rule 3.9.

**ARRANGEMENT** means an arrangement made by a Member with the Administrator to provide benefits under these rules.

**CHILD** means the lawful, adopted, legitimate, illegitimate or stepchild or child or children of a Member.

**COMMENCEMENT DATE** means the date of Definitive Trust Deed

**COMMISSIONER OF INCOME TAX** means the Commissioner charged with the administration of the Income Tax Act and its subsidiary regulations and statutory modification or re-enactment thereof for the time being in force (hereinafter referred to as the "CIT").

**DEED OF ADHERENCE** means a deed of adherence to be executed by a Member in the style and form contained in the Second Schedule.

**DEPENDANT** means a person who is financially dependent on a Member or Pensioner or was so at the time of death of the Member or Pensioner.

**DISCRETIONARY TRUSTS** has the meaning of any sum or sums directed to be held on such trusts with regard to a deceased Member or Pensioner.

**ELIGIBLE MEMBER** means a member who has attained the Minimum Benefit Commencement Age or a member who has not attained the Minimum Benefit Commencement Age but who is in the opinion of the Trustees/Administrator permanently incapacitated and to whom payment of benefits shall not prejudice approval of the Plan by the CIT.

**EXEMPT APPROVED PLAN** means a plan which is approved by the CIT for the purposes of Section 3.17 of the Income Tax (Allowances, Deductions and Exemptions Rules, 1992.

**FUND** means the pension fund constituted under the Rules.

**INCOME TAX ACT** means the Income Tax Act 2010 as amended from time to time.

**JOINING DATE** means the date the Deed of Adherence has been signed by the relevant Member adhering to this deed.

**MEMBER** means an eligible individual who has made an Arrangement under the Plan for the provision of benefits.

**MEMBER'S ACCOUNT** means that part of the assets of the Fund, which is certified for the time being by the Trustees as being attributable to the Member.



**MEMBER'S INTEREST** means the value on a particular date, as determined by the Trustee/Administrator, of all contributions and transfer payments received on behalf of the member with appropriate allowance for the investment return received thereon and after taking account of the amount and timing of any benefits paid to or on behalf of the member.

**MEMBER'S UNVESTED INTEREST** means the value on a particular date, as determined by the Trustee/Administrator, of that portion of the Member's Interest which has not yet been applied to provide or calculate a benefit that has been paid from the plan or from any other previous pension scheme for the member from which a transfer payment has been received.

**MEMBERSHIP LETTER** has the meaning given to that expression in Rule 5.3.

**MINIMUM BENEFIT COMMENCEMENT DATE** means the minimum age in Gibraltar that retirement benefits can be taken.

**NOMINATED BENEFICIARY** means a person being either the spouse of the Member, some Dependant or other individual or body selected by the Member.

**NORMAL RETIREMENT DATE** means the selected retirement age specified in the Membership Letter which can be no earlier than age 55 or later than 75 years. The CIT, may at his discretion, allow a Member to retire after reaching normal retirement date provided that the Member's age does not exceed seventy-five years.

**PENSIONER** means a person who is for the time being receiving a pension out of the Fund.

**PERPETUITY PERIOD** means the period of 100 years from the Commencement Date plus such further period (if any) as may be lawful including any period during which the trusts of the Plan may be exempt for whatever reason from the application of the Rule against perpetuities.

**PLAN** means the Plan governed by these Rules and known as The STM Protected Retirement Plan (GIB).

**RELATIVE** means and includes in relation to any deceased Member:-

- (a) the widow or widower of the Member or Pensioner;
- (b) the father or mother or grandparents (whether lawful or adoptive) of the Member or Pensioner and the widow or widower of such father or mother or grandparents;
- (c) any person (except such Member or Pensioner) who is the child or remoter issue (whether lawful or adoptive) of such father or mother or grandparents, and the spouse or widow or widower of any such person; or
- (d) any person who has been the wife or husband of the Member or Pensioner.

**RULES** mean these Rules or other the Rules for time being in force, having regard to any alterations made therein, including any appendices hereto.

**RELEVANT BENEFITS** means any pension, lump sum or other similar benefits, gratuity or other like benefits given or to be given on retirement, injury or on death or in anticipation of retirement.

**TAX CODE** means the Income Tax Act as amended and where appropriate any regulations made thereunder or any conditions which the CIT lays down for the approval of Plans thereunder.

**TRUSTEES** means the Initial Trustees or Trustee for the time being of the Plan having been duly appointed in accordance with the Rules.

**WINDING UP** means the process of terminating the Plan in accordance with the Rules.

**YEAR** means in relation to the calculation of benefits for a Member, a completed Plan year as agreed by the Trustees and/or Member.

## **1.4 Name of the Plan**

The Plan shall be known as the STM Protected Retirement Plan (GIB) or such other name as the Trustees shall determine in writing and affixed to this Deed.

## **1.5 Interpretation - General provisions**

All words importing the singular number will include the plural, and vice-versa, and words importing the masculine, the feminine or neuter genders will, unless the context otherwise requires include a reference to either or both of the other genders.

All references to any enactment, other than a reference to any definition contained in any enactment, will be deemed to include a reference to any statutory modification or re-enactment thereof for the time being in force.

## **1.6 Effect of headings and marginal notes**

The arrangement of Rules, headings to rules and any marginal notes will not form part of the Rules and will not affect the interpretation of any one or more of the Rules.

## **SECTION 2 – CONSTITUTION / PROVIDER**

### **2.1 Constitution of the Fund**

The investments, cash and other assets held by the Trustees for the purposes of the Plan constitute the Fund and will include:-

- (a) investments, cash and other assets transferred into the Fund pursuant to the Rules;
- (b) all contributions by Members pursuant to the Rules;
- (c) the interest, dividends, capital gains and income of the Fund and any donations, legacies or other exceptional receipt.

### **2.2 Declaration of Trust**

The Trustees will hold the Fund upon trust to provide benefits for Members and their Dependants and Relatives becoming eligible in accordance with the Rules as from time to time in force.

## **SECTION 3 – ADMINISTRATION**

### **3.1 Appointment and removal of Trustees**

The Fund is vested in the Trustees as trustees. Subject to as mentioned below the following powers of appointment and removal will be vested in the Trustees:-

- (i) the power at any time of appointing new trustees;
- (ii) the power at any time to appoint an additional trustee or another corporate body as trustee provided that no person who is prohibited from acting as a trustee of the Plan may be appointed as a trustee.

#### **PROVIDED THAT:-**

- (a) it is confirmed that a person is not prevented from being appointed or acting as a Trustee of the Plan due to the fact that he is not resident nor domiciled in Gibraltar or is not of British nationality;
- (b) if all the Trustees are resident outside Gibraltar they will appoint a person resident in Gibraltar to act on their behalf as Administrator and to discharge all duties imposed upon the Administrator of the Plan by statute or by the CIT and any such appointment will satisfy the necessary requirements of the CIT.
- (c) No appointment of additional or replacement trustee shall be effective unless it has been approved by the CIT.

### **3.2 Retirement of Trustees**

The Trustees may retire at any time without assigning any reason and without being responsible for any costs occasioned by such retirement provided that prior notice is given to the Members, provided that no such retirement shall take effect unless there is at least one remaining trustee approved by the CIT.

### **3.3 Trustees to have control of the Fund**

The Trustees will, subject to these Rules, have sole and absolute control of the Fund and the administration thereof and determine (within the limits laid down by these Rules) the investments which it will hold from time to time.

### **3.4 Trustees may appoint nominee to hold investments**

All investments will be taken in the names of the Trustees or in the sole name of any nominee or nominees appointed by the Trustees to act as their nominee or nominees.

### **3.5 Remuneration of Trustees**

The Trustees will be entitled to such remuneration (if any) as may from time to time be agreed between the Trustees and the Members. Such remuneration will be a charge on the Fund except to the extent that the Members may from time to time agree to pay it.

Any associated company of the Trustees will, without being liable to account for any profit or fees thereby made, be entitled:-

- (a) to act as investment manager or adviser to the Trustees;
- (b) to carry out the administration of the Plan on behalf of the Trustees;
- (c) perform any services on behalf of the Plan or of the Trustees;

and make any charge commensurate with the services so provided.

### **3.6 How Trustees may act**

#### **(a) Corporate Trustees**

A Corporate Trustee may act by resolution of its board of directors, and any consent, decision, notice or other document or instrument of whatsoever nature will be deemed to be sufficient to comply with the Rules if signed on behalf of the Trustees by any two directors of the Trustees, or any one director and the secretary.

#### **(b) Trustees in general**

- (i) The Trustees may meet and regulate their meetings as they will think fit, or may conduct their business by agreement in correspondence. A quorum for a meeting will be two Trustees present in person, unless a corporate body is appointed sole Trustee hereof, or unless otherwise determined. In the event of the number of Trustees being reduced below two, unless such sole trustee is a corporate body the remaining Trustee will forthwith appoint a person or persons as a new Trustee or Trustees hereof to restore the number to not less than two.
- (ii) The decision of a majority of the Trustees who are present and vote at a duly convened meeting of the Trustees at which a quorum is present will be binding on all the Trustees.
- (iii) The Trustees will cause proper minutes to be kept and formally recorded together with any resolutions and proceedings.

### **3.7 Members as directors of corporate Trustees**

No director of the Trustees can be a Member by reason of his dual capacity.

### **3.8 Secretary**

A secretary of the Plan may from time to time be appointed by the Trustees for such period and generally upon such terms as they will think fit and the secretary will have an office, the address of which will be notified to members and at which notices may be served on him and enquiries may be made.

### **3.9 Administrator**

The Trustees must appoint an Administrator of the Plan, who will be a person or company ordinarily resident in Gibraltar, for the purpose of managing the Plan and who will be responsible to the CIT for the payment of benefits and of tax on benefits and who will furnish the CIT with returns, accounts and reports, as may be required by the CIT from time to time. Until any appointment is made the Trustees will act as Administrator. In the event of an appointed Administrator ceasing for whatever reason to be the appointed Administrator, a new Administrator will immediately be appointed with the approval of the CIT.

### **3.10 Expenses of Administration**

The Trustees and Administrator will be repaid out of the Fund for all liabilities costs and expenses incurred by them in the execution of the trusts hereof and in the management and administration of the Plan.

### **3.11 Books of Account**

The Trustees will cause proper books of account to be kept showing all the dealings with the Fund, and an account and balance sheet of the Fund made up to the accounting date in each year will be prepared.

### **3.12 Record of Members and relevant matters**

The Trustees will keep a record of all Members of the Plan and of all matters relevant to the administration of the Plan and will keep accounts to show the position of the Plan and the amounts contributed to the Plan on behalf of each Member including those amounts to be disbursed as costs, charges and expenses under the terms of this Deed. All books of account and records of the Trustees will be kept at the registered office of the Trustees or at such other place as the Trustees think fit.

### **3.13 Investment**

All moneys belonging to the Fund will either be placed on current or deposit account with a bank or invested in the name or under the legal control of the Trustees in the purchase of or at interest upon the security of such stocks, funds, shares, securities or other investments or property of whatsoever nature and wheresoever situate and whether involving liability or not, and whether producing income or not, or upon such personal credit with or without security, as the Trustees will in their absolute discretion think fit, to the extent that the Trustees will have the same full and unrestricted powers of investing and transposing investments in all respects as if they were absolutely and beneficially entitled thereto and so that without prejudice to the generality of the foregoing, trust money may:-

- (i) be invested in or upon any securities the holding of which is restricted

to a particular class of persons, the Trustees being members of that class, and the Trustees will, in making any such investment which requires an indemnity to be given by the Trustees against liabilities arising in the event of the Fund losing its status as an exempt approved Plan, have power to bind the Fund, notwithstanding that such indemnity may only become operative by reason of some act or omission which constitutes a breach of trust on the part of the Trustees;

- (ii) be used for entering into underwriting contracts of all kinds, whether resulting in the actual investment of trust moneys or not;
  - (iii) be invested by effecting with one or more Insurance Companies managed fund contracts, deferred annuity policies, annuity policies or contracts for the purpose of providing pensions or benefits, whether immediate or future and whether contingent or otherwise, for the purposes of the Plan, and the Trustees will have full power to deal with and dispose of any policy effected by them whether by sale, surrender or otherwise in such manner in all respects as the Trustees will in their absolute discretion think fit;
  - (iv) be used to sell, purchase or create any option contract traded on any recognised option market or financial future markets. The Trustees must comply with any requirement necessary with regard to such contracts;
  - (v) All investments made in unquoted securities must be subject to an independent valuation made on behalf of the Trustees and that all investments must be at arm's length and at commercial rates.
- (b) No loan will be made to the members of the Plan.
- (c) No investments will be made in the share capital of the Employer.
- (d) The value of the member's fund at any time invested in aggregate in the following is restricted to 50%:-
- (i) loan capital or debenture of the Employer
  - (ii) the value of residential property owned by the Member's fund
  - (iii) the value of property owned by the fund and occupied by the Employer for business purposes

A scheme approved under the terms of the Income Tax Act 2010, Section 14b is exempted from being bound by the terms in Sections 3.13 (c) and (d) above.

### **3.14 Power to delegate investment functions**

The Trustees will have power from time to time to delegate their powers of making and managing investments and of keeping a register thereof to any person, firm or company whom they consider competent to do so, and to pay to such person, firm or company such fees as may be agreed, provided the Trustees consider such fees to be reasonable in all the circumstances.

### **3.15 Power to open bank accounts**

The Trustees will open any necessary banking account or accounts for, and in the name of, the Plan with whichever bank or banks the Trustees see fit and will be entitled to operate that account or those accounts and to sign, endorse or otherwise deal with cheques, bills and other negotiable and restricted instruments as they think

fit.

### **3.16 Power to employ agents and rely on advisers**

The Trustees may act on the opinion or advice of any accountant, actuary, lawyer or any other professional person or agent employed or instructed in the carrying out of the business of the Plan. This may include the receipt and payment of pensions and other such benefits. The Trustees will not be responsible for the default of any agent if employed in good faith.

### **3.17 Notices**

Any notice to the Trustees or to any Member, Pensioner or other person in receipt of a pension or annuity or entitled to any other benefit hereunder may be given by sending the same through the post in a letter addressed to him at his last known place of abode, and any notice so sent will if sent by post to a Gibraltar address be deemed to be served on the day following that on which it is posted and in any other case on the fourth day following that on which it was posted.

### **3.18 Members to give notice of addresses**

Every Member and Pensioner will give notice in writing to the Trustees of his place of residence at the time he becomes a Member or entitled to a pension out of the Fund and, thereafter, will give immediate notice of any change of residence.

### **3.19 Indemnity**

The Trustees will be indemnified against all liabilities incurred by them in the execution of the trusts hereof and the management and administration of the Plan, and will have a lien on the Fund for such indemnity and no trustee will be liable for anything whatever other than arising out of its own gross negligence, willful default or fraud; and further, the Trustees may enter into such agreements and give such undertakings indemnities or guarantees which are binding on the Fund, as the Trustees will, in their absolute discretion, decide are necessary and proper for the efficient administration of the Plan.

### **3.20 Payment of pensions**

The following administrative provisions will apply to the payment of pensions:-

- (a) all pensions and annuities will be payable at such periods as the Trustees will from time to time, either generally or in any particular case, decide and any pension or annuity may be paid in advance if the Trustees think fit;
- (b) pensions will not be apportioned. Where a pension is paid in arrears and ceases to be payable due to the death of the member or any other reason, no payment in favour of the member or his personal representatives shall be made following the due payment date immediately prior to the cessation of the pension.



- (c) pensions and annuities shall be paid only to a bank account maintained by the Pensioner subject to Clause 3.20(e).
- (d) before making or sanctioning any payment out of the Fund, the Trustees may require the production of a certificate, or such other evidence as they may think fit, of the birth, marriage, continued existence or death of the person claiming benefit or of a Member, his spouse or Dependants or the identity of any person named in a certificate or any other material fact;
- (e) if the Trustees are of the opinion that any person entitled to benefit is incapable of managing his affairs due to physical or mental infirmity, the Trustees will be entitled at their discretion to pay any such benefit to any person approved by them who undertakes to apply such benefit to or for the maintenance or benefit of the person concerned, and the Trustees will not be under any obligation to see to the application of any benefits so payable and actually paid to such person as aforesaid.

### **3.21 Claims only in accordance with Rules**

No Member or Pensioner will have any claim or right to any benefit save if and so far as the Plan allows and in accordance with the Rules.

### **3.22 Annuity in satisfaction of Member's rights**

The Trustees, acting on Actuarial Advice if appropriate, may at any time, and from time to time, if and when they will for any reason consider it convenient in any particular case, purchase from any Insurance Company any policy of insurance or annuity contract for the purpose of answering or satisfying any benefits which may be paid to any person under the Rules, whether immediately or prospectively, on terms which as nearly as may be correspond to the terms on which such benefits would otherwise be payable under the Rules. Any policy or contract so purchased will be purchased in the name or names of the person or persons to whom the benefits purchased are to be paid, or in the name of the Trustees for him or them, and will be paid or applied for the purposes and in the manner to and for and in which the said benefits in respect of which the same was purchased is payable or applicable in accordance with the Rules.

No Member or person on whose behalf any such policy or contract is purchased under the provisions of this Rule will thereafter have any claim upon or interest in the Fund.

### **3.23 Effect of misstatements**

If any Member or Dependant of a Member will make any misstatements as to any of the matters referred to in the preceding Rules, the Trustees, on discovering the misstatement, will have power, acting on Actuarial Advice if appropriate, to make such arrangements as they will consider fair by way of adjustment of any pension, annuity or other money payable out of the Fund.

### **3.24 Information to be available**

Every person having any rights under the Plan will on demand be entitled to inspect

a copy of the Rules and all amendments thereof during normal office hours. All persons having any rights under the Plan will be issued with an annual statement.

### **3.25 Arbitration**

In the case of any dispute or difference arising between any person or persons interested in the Fund (whether actually or prospectively or contingently) and the Trustees or the Member concerning the exact meaning or construction of any of these Rules or any rights or liabilities thereunder, it will (so far as the decision or determination of such dispute or difference is not otherwise effectively provided for by the Rules) be referred to arbitration by a single arbitrator (to be appointed, failing agreement between the parties, by the Leader of the Gibraltar Bar) in accordance with the provisions of the Arbitration Act or any modification or re-enactment thereof for the time being in force.

### **3.26 Restrictions**

No benefits payable under the plan shall be capable of surrender, assignment or commutation except as described in Section 9, and no loanback facility will be allowed and the Plan cannot be mortgaged or charged as security for a loan.

## **SECTION 4 - ALTERATIONS IN AND ADDITIONS TO RULES**

### **4.1 Power of alteration**

The Trustees may at any time, and subject only to the provisions of this Section, by deed, alter or repeal all or any of the Rules for the time being in force or make any new Rules to the exclusion of or in addition to all or any of the existing Rules aforesaid, and any Rules so made will be deemed to be Rules of the same validity as if originally embodied herein and will be subject in like manner to be altered or modified.

### **4.2 Effect on existing benefits**

No alteration or addition will prejudice or affect any pension or annuity then payable under the Plan.

### **4.3 Alterations not to affect purpose of the Plan**

There will be no alteration which will have the effect of altering the purpose of the Plan, which will continue to be the provision of Relevant Benefits for Members, either on retirement at a specified age or on death or incapacity at some earlier age.

### **4.4 Alterations not to contravene any laws or regulations**

There will be no alterations which will contravene any law or regulation of Gibraltar for the time being applicable to the conduct of pension plans, or whereby the same will cease to be an approved plan pursuant to the Income Tax Act, its subsidiary regulations and statutory modification or re-enactment thereof for the time being in force.

### **4.5 Consent of CIT**

There will be no alteration without the consent in writing of the CIT.

## **SECTION 5 - ELIGIBILITY AND MEMBERSHIP**

### **5.1 Eligibility**

Membership of the Plan shall be open to residents of Gibraltar and such other persons as the trustee/administrator of the Plan may admit to membership at their absolute discretion, provided that no member shall be admitted to the Plan whose membership shall prejudice the approval of the Plan by the CIT.

### **5.2 Application for membership**

- (a) An individual who wishes to enter into membership of the Plan must complete the Deed of Adherence and any relevant application form required by the Administrator and/or Trustees which must include the following undertakings:
  - (i) the Member agrees to be bound by these Rules:
  - (ii) the Trustees agree to administer the Plan as required by these Rules.
- (b) A person can become a Member only if the Trustees agree.

### **5.3 Membership Letter**

Every Member who has joined the Plan will be given details in writing of the Plan as follows.-

- (i) A schedule confirming the details of the Plan
- (ii) A copy of the Deed of Adherence which has been signed by the Trustees
- (iii) A copy of the investment schedule
- (iv) A reconciliation account confirming the amounts received, deducted and invested
- (v) Nominated beneficiaries

## **SECTION 6 – TRANSFERS TO THE PLAN**

- (a) A member of the Plan, who has accumulated pension entitlements within another pension scheme whether situated in Gibraltar or elsewhere - may request that the Trustees/Administrator accept a transfer payment from such other pension scheme. The Trustees/Administrator shall have the right at its absolute discretion to refuse such request.
- (b) No transfer to the Plan may be made without the approval of the CIT, who may set out from time to time his requirements for such approval.
- (c) The Trustees/Administrator shall determine the form in which any transfer payment shall be made and the benefits that shall be granted in respect of such transfer payment.

## **SECTION 7 - MEMBER'S CONTRIBUTIONS**

- (a) A member may from time to time elect to make contributions to the Plan. These shall be agreed with the Trustees/Administrator provided that such contributions shall not prejudice the approval of the scheme by the CIT.

- (b) The Trustees may refuse to accept contributions without giving reasons.
- (c) The Trustees may impose such restrictions on contributions as it shall deem appropriate.
- (d) The Trustees shall not accept contributions to the Plan which would mean that the Fund ceases to be an Exempt Approved Plan.

#### **SECTION 8 – TRANSFERS FROM THE PLAN**

- (a) A member, who joins another pension scheme, whether situated in Gibraltar or elsewhere, may request that the Trustees/Administrator make a transfer payment to such other pension scheme.
- (b) No transfer from the Plan may be made without the prior approval of the CIT, who may set out from time to time his requirements for such approval.
- (c) Subject to 8(b) above, the Trustees shall determine the form in which any transfer payment shall be made and may make as a condition of such transfer stipulations regarding the benefits that shall be granted in respect of such transfer payment in order to comply with 8(a) and 8(b) above.

#### **SECTION 9 - COMMENCEMENT AND AMOUNTS OF MEMBER'S BENEFITS**

- (a) Any member of a scheme shall have the right to commence drawing benefits from the plan in whole or in part, at any time after attaining the Minimum Benefit Commencement Age.
- (b) If a member who has not attained the Minimum Benefit Commencement Age is, in the opinion of the Trustees, permanently incapacitated then such member shall also be entitled to commence drawing benefits from the plan provided that payment of benefits to such member shall not prejudice the approval of the plan by the CIT and subject to prior notification, given in such format as the CIT shall determine.
- (c) Each member who is eligible to draw benefits shall be able to choose to draw such benefits in lump sum or in pension form, subject to Sections 10 and 11, subject to prior notification, given in such format as the CIT shall determine.
- (d) The amount of any lump sum benefit payable to an Eligible Member shall not exceed the limits set out in Section 10.
- (e) The amounts of any pension benefit payable to an Eligible Member shall not exceed the limits set out in Section 11.
- (f) In cases where the Member, although he has reached his Normal Retirement Date, elects not to receive a pension from the Plan payment of any pension may be deferred until the Member attains 75 years of age.

## **SECTION 10 – LUMP SUM RETIREMENT BENEFIT**

The Member's lump sum retirement benefit will at all times be subject to approval by the CIT and will not exceed on retirement at, before or after Normal Retirement Date, 30% of the Member's unvested interest.

## **SECTION 11 – PAYMENT OF PENSIONS**

- (a) Pensions payable to plan members are intended to be payable throughout life.
- (b) The maximum regular pension payable to a member in respect of each year commencing on the anniversary of Pension Commencement Date shall be such sustainable amount as determined by the trustee/administrator using actuarial advice or guidance, if required, taking into account the value and nature of the assets and subject to the Trustees discretion.
- (c) The Trustees shall pay pensions on such dates as it shall determine.
- (d) The amount of the maximum regular pension shall be recalculated in respect of each member at least once in every three year period following Pension Commencement Date and yearly following the member attaining age 75.
- (e) The maximum amount of income that can be drawn down from the pension fund will be subject to the UK capped drawdown limits in force at the relevant anniversary if any.

## **SECTION 12 - BENEFITS ON DEATH**

### **12.1 Death benefits**

In the event of the death of a member, the Trustees/Administrator of a scheme subject to its rules will be able to apply such deceased member's, remaining Member's Interest, in one or both of the following two alternative types of death benefit in such combination and proportion as the trustee/administrator in its absolute discretion shall determine. The two alternative death benefits are:-

- a) Lump sum death benefits and
- b) Pension benefits to Relatives or Dependants.

### **12.2 Lump sum benefits on death**

At the discretion of the Trustees/Administrator the lump sum death benefits may be paid to any of the following in such amounts and proportions as the trustee/administrator shall determine:-

- a) Any Relative or Dependant
- b) Any person nominated as a beneficiary on death to the trustee/administrator by the deceased member during his lifetime
- c) Any trust wherever situated for the benefit of any person listed in a) to b) above

- d) Any charity nominated as a beneficiary on death by the deceased member during his lifetime and approved for such purpose by the trustee/administrator.
- e) The deceased's legal personal representatives.

**PROVIDED THAT:-**

- (i) the Trustees may hold such lump sum on trust for a period of up to two years after the death of a Member until they are able to distribute the sum; and
- (ii) if at the expiration of two years the Trustees have not distributed the lump sum, wholly or in part, whatever remains of the lump sum will be transferred to a separate account outside the Plan to be held on trust by the Trustees for the personal representatives of the deceased Member or, if there are none, the statutory next of kin of this Member;
- (iii) the Trustees may, but without being in any way bound to do so, have regard to any document signed by the Member or Pensioner concerned expressing his wishes relating to the disposal of any sum to be held upon the Discretionary Trusts.

The Trustees will have power to declare in respect of any sum or part thereof such separate trusts, terms and limitations including maintenance, education, advancement and accumulation of income during a minority, and including such discretionary trust and powers, as the Trustees will from time to time by deed revocable or irrevocable appoint, but without infringing the Rule against perpetuities, and the Trustees will have power to appoint as trustees of such Fund any two individuals or one corporate trustee as the Trustees will in their absolute discretion decide and to remove any of such trustees and appoint any other trustee in place of any one so removed.

**12.3 Relative and Dependants' pension on death**

- (a) The Trustees/Administrator may also choose to apply all or part of the deceased Member's Interest to provide for any of the deceased Member's Relatives or Dependants.
- (b) In the event that the Trustees/Administrator determines to provide more than one pension under 12.3(a) above then separate pensions shall be provided for each such person.
- (c) The Trustees/Administrator may determine at its absolute discretion that any pension may cease while in payment.
- (d) In the event that any pension ceases for any reason the Trustees/Administrator shall have the right to apply any residual unearmarked funds within the deceased member's interest to pay either further lump sum death benefits to Relatives or Dependants under 12.1 above or to provide further dependant's pensions under 12.3(a) above.
- (e) Monies may continue to be held under the Plan during such period following the death of a member as the trustee/administrator finds to be necessary in order either to determine who is to benefit and/or to pay death benefits.

No death benefits are to be paid without the approval of the CIT.

## **SECTION 13 - STATUS OF THE PLAN AND TAXATION**

### **13.1 Status of the Plan**

The Plan shall be administered in such a way as to comply with S14B of the Income Tax Act 2010, as amended from time to time and any Guidelines or notices issued by the CIT in respect thereof.

### **13.2 Undertakings to the CIT**

For the purpose of enabling the Plan to continue to be approved as aforesaid the Trustees or Administrator may give to the CIT such undertaking or undertakings as may be required from time to time and may vary any such undertaking or undertakings.

### **13.3 Effect of undertakings**

Except for any undertakings which would overrule this Rule 13.3 the provisions of any undertaking which may be given pursuant to the foregoing provision of this Section will be deemed to be incorporated in the Rules, and, to the extent that they are inconsistent with any other provisions of the Plan, they will override that provision.

### **13.4 Taxation deductions**

The Administrator will account for all taxation for which they may be liable in accordance with all relevant sections of the Income Tax Act 2010 or any other applicable law and will be entitled to deduct from any payment being made to a Member or other person entitled under the Rules the amount for which they are so accountable.

## **SECTION 14 - TERMINATION AND WINDING-UP**

### **14.1 Power of determination**

The Plan may be terminated by the Trustees. Upon such termination, the Trustees will give notice thereof to the Members. The Plan will thereupon be wound up, unless the Trustees, with the consent of the Administrator decide to continue it as a closed plan. A "Closed Plan" for the purpose of this rule means one in which no new members will be admitted and no further contributions paid.

### **14.2 Total winding-up of the Plan**

If the contributions will be terminated in accordance with Rule 14.1 and the Plan will not be continued as a Closed Plan, or if the Trustees will at any time be of the opinion that the objects for which the Plan was established no longer exist or that the administration thereof cannot conveniently be carried on, the Plan will thereupon be wound up and the trusts upon which the Fund was formerly held will cease. The Plan will in any event be wound up if the Perpetuity period will expire.

### **14.3 Application of Fund on Winding-up**

Upon the Winding up of the Plan, then, unless there is a transfer of assets in specie to another Plan pursuant to this Rule, the assets of the Fund will be realised and the Fund converted into money and, subject to the payment of all costs, charges and expenses which may then be owing, the entire proceeds of such conversion will be applied by the Trustees in satisfying the following obligations in the order in which they are set out below:-

- (a) in securing the continuance as if under the Plan of any pensions and annuities which have then actually commenced, pensions prospectively payable to Members after Normal Retirement Date and benefits payable on the death of any such Pensioner or Member;
- (b) in the provision of benefits for Members and other prospective and beneficiaries entitled in anticipation to benefits regard being had to the respective prospects of becoming entitled to such benefits had the Plan continued in existence;

### **14.4 Transfer payments on Winding-up**

In relation to any amount becoming payable under Rules 14.3 the following provisions will have effect in relation to transfer payments:-

- (a) a transfer payment will only be made with the consent of each individual Member except that transfers may be made without the Member's consent if the rights allowed in the receiving Plan are in the opinion of the administrator of the receiving Plan at least equal in value to the rights transferred;
- (b) the amount of the transfer payment will be of such amount or amounts as the Trustees will decide, regard being had to the assets available on the winding-up.

### **14.5 Securing of benefits on Winding-up**

In cases where a transfer payment is not made in respect of a Member, his benefits will be secured by the purchase of an annuity or other insurance policy or contract from an Insurance Company which will be endorsed to show:-

- (a) that the annuity contract or policy is non-commutable and non-assignable except as shown in paragraph (b) below;
- (b) the amount in monetary terms available by way of commutation or on death;
- (c) the earliest date from which the pension is payable; and
- (d) that any lump sum payable under the contract or policy will be appropriately discounted in the event of the pension becoming payable before his Normal Retirement Date.



#### **14.6 Payment of benefits on Winding-up**

All annuities purchased pursuant to Rule 14.5 will commence to be payable not earlier than the earliest date on which a pension or annuity could have been payable under the provisions of the Rules had the Plan continued in existence, and all annuities will be non-assignable and non-commutable.