

**EXCEPTED GROUP LIFE ASSURANCE TRUST**



**THIS TRUST DEED** is made on

by \_\_\_\_\_, ( \_\_\_\_\_ ) whose office is situated at, \_\_\_\_\_  
(the "**Sponsor**")

- (A) The Sponsor has decided to establish an excepted group life assurance trust to be known as the \_\_\_\_\_ EXCEPTED GROUP LIFE ASSURANCE TRUST (the "**Trust**") to provide lump sum benefits on death in Service for such Employees of Participating Employers as are admitted to membership. The Trust is not to be treated as a registered pension scheme under section 153 of the Finance Act 2004.
- (B) Execution of this deed confirms the establishment under irrevocable trusts of the Trust with effect on and from \_\_\_\_\_
- (C) The Trustee (as defined in the Rules) shall be the first Trustee of the Trust.
- (D) The benefits under the Trust shall be secured by a Policy or Policies as selected and effected by the relevant Participating Employers with Ellipse.
- (E) The Trust shall be governed in accordance with the rules scheduled to this deed (the "**Rules**").
- (F) The Trustee shall administer and manage the Trust in accordance with the Rules and any amendments to this deed and the Rules.
- (G) The persons named in the table below (if any) shall be admitted to participation in the Trust as the Original Participating Employers with effect on and from the commencement of the Trust.
- (H) Defined terms used in this deed but not defined in it shall bear the same meaning as in the Rules.

**Persons to be admitted as Original Participating Employers**

<b>Name</b>	<b>Registered Number</b>	<b>Registered Address</b>

**IN WITNESS** whereof the parties hereto have executed this instrument as a deed on the date first before written:

Executed as a Deed by the **SPONSOR** )  
acting by: )

.....

Director

.....

Director/Secretary

Executed as a Deed by )  
**[ORIGINAL PARTICIPATING EMPLOYERS]** )  
acting by: )

.....

Director

.....

Director/Secretary

*[NB each employer will need to have its own signature clause and sign the deed.]*

# Schedule

## The Rules

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## 1. GENERAL INTERPRETATION AND DEFINITIONS

### 1.1 Interpretation

1.1.1 In these Rules where the context so allows, words in the singular shall include the plural and vice versa, and any term of a masculine gender may be read to include the feminine gender.

1.1.2 References in these Rules to any statute or regulation made under it shall include a reference to any statutory amendment or re-enactment.

1.1.3 The Trust and the trusts established by the Trust Deed and these Rules shall in all respects be governed by and interpreted according to the laws of England, and the Courts of England shall have exclusive jurisdiction.

### 1.2 Definitions

In the Rules and any subsequent amendment the following expressions shall have the meaning given to them below:

“**Beneficiary**” means such persons named below as are living at the date of the death of the Member:-

- (a) the Spouse of the Member;
- (b) the children of the Member;
- (c) any Spouse of the children of the Member;
- (d) the parents of the Member;
- (e) any dependant of the Member including any person to whose advancement, maintenance, education or support the Member shall, in the opinion of the Trustee, have contributed;
- (f) any individual person or charity (including an unincorporated body or association) notified by the Member to the Trustee as a person or body who the Member wishes to be considered as a recipient of Benefit in the event of their death;
- (g) the trustees of a trust independent of the Trust for the benefit of one or more of the above Beneficiaries;

the relationships described above shall include adoptive and step-relationships and relationships of the half-blood, and any former Spouse of the Member and children conceived but yet to be born at the Member's death.

**"Benefit"** means the lump sum amount payable on the death of a Member. The relevant Policy specifies the amount of the Benefit in respect of a Member.

**"Civil Partner"** means a person in a registered civil partnership under the Civil Partnership Act 2004, or treated as being in a registered civil partnership under that Act.

**"Deposit Taker"** means a deposit-taking firm as described in the Financial Conduct Authority Handbook .

**"Ellipse"** means ERGO Lebensversicherung AG UK Branch (Trading As Ellipse) (registered number BR010594).

**"Employee"** means an individual who is in the Service of a Participating Employer, and includes a partner, director or principal of a Participating Employer.

**"Member"** means an Employee in respect of whom Benefit is payable under a Policy.

**"Participating Employer"** means the Sponsor and any employer, company, firm, person or body admitted to participation in the Trust under Rule 8. In respect of any Member 'the Participating Employer' means that one or more of the Participating Employers by which they are for the time being employed.

**"Policy"** means a policy for the time being in force issued by Ellipse to a Participating Employer or Participating Employers which is or meets the requirements to be an excepted group life policy within the meaning in section 480(3) of the Income Tax (Trading and Other Income) Act 2005 to secure lump sum death benefits to be held on the trusts of the Trust. Details of the Policy shall be notified to the Trustee by Ellipse.

**"Professional Adviser"** means any qualified solicitor, barrister, accountant, actuary, broker, medical practitioner or any other professional person.

**"Rules"** means these rules which govern the Trust.

**"Same Sex Spouse"** means in relation to a Member the person to whom a Member is legally married in accordance with the Marriage (Same Sex Couples) Act 2013.

**“Service”** means service with any of the Participating Employers and Service shall be deemed continuous although performed with more than one of the Participating Employers, on such terms as are set out in the Policy, and may include service conducted as a director , partner or principal of a Participating Employer.

**“Sponsor”** means the person who is named as Sponsor in the Trust Deed or any person who becomes the Sponsor under Rule 9.

**“Spouse”** means the surviving legal husband or wife or Civil Partner of the deceased Member, and includes a Same Sex Spouse.

**“Trust”** means the Sponsor’s Excepted Group Life Assurance Trust constituted by the Trust Deed and these Rules.

**“Trust Deed”** means the trust deed establishing the Trust to which these Rules are scheduled.

**“Trustee”** means Pitmans Trustees Limited (Company number 02952373) or any person who becomes the trustee or trustees of the Trust under Rule 2.2.

- 1.2.1 If all or part of the Policy is found to contravene section 480 (3) of the Income Tax (Trading and Other Income) Act 2005 such that the Policy will not meet the requirements to be excepted, the Trust Deed, Rules or any other Policies under the Trust shall not be undermined and shall instead be treated independently of that Policy.



## **2. TRUSTEE**

### **2.1 General Provisions**

2.1.1 The Trustee shall ensure the sole purpose of the Trust remains at all times the payment of lump sum benefits on death in Service in respect of any Member and that at all times the Policy meets the requirements of an excepted group life policy within the meaning in section 480(3) of the Income Tax (Trading and Other Income) Act 2005 and no actions or omissions are made which would or might prejudice the terms of a Policy.

2.1.2 The Trustee shall at all times observe the terms and conditions of the Rules and any amendments made from time to time to the Trust or as required by overriding legislation.

2.1.3 Subject to the powers given to the Sponsor and Ellipse by the Rules, the decision of the Trustee shall be final on all matters of doubt arising under the Trust, all questions which are left to their determination or decision in relation to the Trust, and on all matters relating to the management and administration of the Trust on which the Rules are silent. The Trustee need not give reasons for any decision.

2.1.4 The Trustee shall have the power to make or revoke any regulation or other provision (not being inconsistent with the Rules) as they think fit relating to any matter or thing not provided for under the Rules, or for the administration of the Trust. The Trustee shall have the power generally to do all such acts and things as they may consider necessary or expedient for the maintenance and preservation of the Trust and of the rights of the Members and others in it.

### **2.2 Appointment and removal of Trustee**

2.2.1 Ellipse may by deed remove a Trustee or appoint a new or additional Trustee without any limit on numbers. Unless a body corporate (whether or not a trust corporation) is the sole Trustee there must always be at least two Trustees.

2.2.2 A Trustee may resign as a Trustee by serving at least three months' written notice (unless Ellipse permits a shorter notice period) on Ellipse provided that if following such resignation there would be less than the minimum number of Trustees specified in Rule 2.2.1 Ellipse shall immediately appoint a new Trustee or Trustees, failing which the Sponsor will instead become a Trustee.

2.2.3 The resigning Trustee shall execute such documents and do all such things as may be necessary to give effect to their resignation.

## **2.3 Payment of Trustee**

2.3.1 Any Trustee may be paid such fees as may be agreed with Ellipse. Trustee fees agreed by Ellipse shall be paid by Ellipse.

## **2.4 How Trustee may act**

2.4.1 If a corporate body is sole Trustee its procedures and the conduct of its internal affairs shall be governed by its constitution.

2.4.2 Where there is more than one Trustee, the Trustees shall decide, in consultation with Ellipse, how to conduct their meetings.

2.4.3 The Trustee shall keep written records of their proceedings and decisions, and of all receipts and payments of Trust assets.

## **2.5 Governance**

2.5.1 The Trustee shall ensure the Trust complies with all applicable legislative requirements concerning the governance and administration of the Trust.

## **2.6 Delegation and Professional advice**

2.6.1 The Trustee may with the consent of Ellipse delegate (and if the Trustee so decides permit a delegate to sub-delegate) any business relating to the Trust for such periods and on such terms (including protection in favour of the delegate) and at such remuneration (if any) as the Trustee thinks fit excepting the exercise of any discretion under the trusts of the Trust. Any such delegation (or sub-delegation) shall be authorised in writing before the exercise of any such delegated authority.

2.6.2 The Trustee may, as they think fit but after consulting Ellipse, obtain the advice of any Professional Advisor. The Trustee shall not be liable for any loss or error that results from having acted on any such advice.

## **2.7 Trustee Protection**

2.7.1 The Trustee (and any director or officer of a corporate Trustee) shall not incur any personal responsibility or be liable for anything whatsoever except for breach of trust knowingly and intentionally committed or condoned by them or in the case of a professional Trustee out of their own negligence.

## **2.8 Bank accounts and investment**

2.8.1 The Trustee shall:

- (a) maintain in its name a separate account with such Deposit Taker or Deposit Takers as the Trustee may decide to hold money belonging to the Trust; or
- (b) authorise Ellipse (or any other person) to open and operate a separate account or accounts as they think fit with Deposit Takers to hold money belonging to the Trust separately from any money belonging to any other person.

### **3. TRUST ASSETS**

#### **3.1.1 Trust assets shall consist of:**

- (a) monies held by the Trustee representing the payment of Benefit; and
- (b) interest paid on the sums referred to in (a) above.

3.1.2 The Trustee will hold all the assets that it receives and the property representing them and all the income on trust to pay the Benefits under the Trust.

### **4. EXPENSES**

4.1.1 Subject to Rule 4.1.2, any costs, charges and expenses (including interest thereon) shall be paid by Ellipse.

4.1.2 Ellipse shall not be liable in respect of any tax or fiscal imposition (which shall instead be dealt with under Rule 7.3), or in respect of any fine or penalty imposed on the Trustee by any court, tribunal, ombudsman or regulator.

### **5. MEMBERSHIP**

#### **5.1 Membership**

5.1.1 An Employee is eligible to be a Member of the Trust if they are eligible for Benefit under the Policy. An eligible Employee's membership of the Trust shall be on such terms (including as to termination of eligibility) as are set out in the Policy.

5.1.2 The decision of Ellipse as to the eligibility of any Employee under the Policy is final.

#### **5.2 Termination of membership**

5.2.1 An Employee ceases to be a Member on the earliest date on which cover under the Policy ceases in respect of that Employee.

## **6. BENEFITS**

6.1.1 A lump sum will be payable in respect of a Member's death to the Member's Beneficiaries in accordance with Rule 7. The amount of the lump sum will be the amount paid in respect of the Member from the Policy.

6.1.2 No Benefit shall be capable of being assigned or applied for the benefit of any person other than the person entitled or contingently entitled to that Benefit.

## **7. DEATH BENEFIT TRUST**

### **7.1 Trusts of the Trust**

7.1.1 Benefit payable under the Trust shall be held by the Trustee on the trusts under this Deed with power to pay it in such shares (and by one payment or a series of two or more payments) as the Trustee in its sole discretion shall decide to any or all of the Member's Beneficiaries.

7.1.2 The Trustee shall ensure such money held on trust is held in cash with a Deposit Taker pursuant to Rule 2.8 solely for this purpose. Interest accrued on the Benefit may be paid to the Member's Beneficiary or Beneficiaries if the Trustee so decides or otherwise retained for the general purposes of the Trust.

7.1.3 To the extent (if any) the Benefit has not been paid in accordance with Rule 7.1.1 above within 2 years of the date that the Trustee is notified of the Member's death (or any earlier date they could reasonably have been expected to know of the Member's death) the Trustee shall pay any balance to Winston's Wish, a charity registered with number 1061359, provided that if Winston's Wish has ceased to exist the Trustee shall instead pay any balance to such charity as they may determine.

7.1.4 The Trustee shall not be obliged to establish the identity of all potential Beneficiaries of a Benefit or the legal right of the Beneficiary to receive the Benefit and if they think fit shall be entitled to rely upon information provided by the appropriate Participating Employer which, in the opinion of the Trustee, is relevant to the exercise of their power under this Rule.

7.1.5 The Trustee may exercise their power under this Rule by transferring or paying the Benefit (or any part of it) to trustees to hold on revocable or irrevocable trust (including discretionary trust) for any one or more of the Member's Beneficiaries as the Trustee shall decide. The Trustee shall have the power to appoint or

remove a trustee or trustees to such trust as they shall decide and may provide for the payment of the appointee.

7.1.6 Any expenses or costs incurred in the establishment of a separate trust in connection with any payment under Rule 7.1.5, may be deducted from the Benefit if the Trustee so decides.

7.1.7 In exercising their power under Rule 7.1, the Trustee may (but shall not be bound to) have regard to any wishes the Member may have expressed in writing as to the recipient of any lump sum death benefit payable on his death in Service.

## **7.2 Incapacity and Minority**

7.2.1 If in the opinion of the Trustee, a Beneficiary is incapable of acting by reason of illness, mental disorder, minority or otherwise the Trustee may retain any money due to the Beneficiary for any period and then pay it to the Beneficiary or to their estate or to any other person who is or appears to the Trustee to be responsible for their care.

7.2.2 The Trustee shall not be obliged to attempt to determine whether any person has a legal right to be responsible for the care of the Beneficiary and the receipt of such person will be a complete discharge to the Trustee.

## **7.3 Taxation**

7.3.1 The Trustee may deduct from any Benefit any tax for which they may be liable or jointly liable in respect of such Benefit. Where the Trustee is liable or jointly liable to tax or any other fiscal imposition in respect of any Benefit or otherwise under the Trust, the Trustee may apply the Benefit in whole or in part in the payment of such liability (including any interest due) and deduct the amount so paid from the Benefit, or postpone payment of the Benefit until the liability has been met or provision satisfactory to the Trustee made for its discharge.

7.3.2 The Sponsor or any Participating Employer may agree with the Trustee to meet any tax or other fiscal imposition referred to in Rule 7.3.1. Provided payment is made in full to the Trustee within a reasonable period specified by the Trustee, the Trustee shall not exercise its powers under Rule 7.3.1.

7.3.3 If Benefit has been distributed and there are no assets available to the Trustee from which to meet any tax or fiscal imposition arising in respect of any Benefit or otherwise in relation to the Trust, the Participating Employer by which the

deceased Member in respect of whom the tax or fiscal imposition in question has been paid shall be solely liable to pay such amount to the Trust or otherwise make arrangements to discharge that liability, but otherwise the Participating Employers shall be jointly and severally liable to pay such amount to the Trust or otherwise make arrangements to discharge their liability.

## **8. PARTICIPATION OF EMPLOYERS**

### **8.1 Participation of employers**

8.1.1 The Trust Deed may provide for any employer, company, firm, person or body connected or associated with the Sponsor and which also executes the Trust Deed (the “Original Participating Employers”) to be admitted to participation in the Trust as a Participating Employer with effect from the commencement of the Trust.

8.1.2 The Sponsor may admit any employer, company, firm person or body to participation in the Trust as a Participating Employer provided that they are connected or associated with the Sponsor and they are covered by a Policy and all other employers covered by the Policy also participate in the Trust.

8.1.3 Prior to admission to the Trust under Rule 8.1.2, each Participating Employer must sign a notice of participation substantially in the form attached to the Rules at Appendix 1. Participation will take effect on the later of the effective date specified under the Policy made between the Participating Employer and Ellipse and the effective date of the notice of participation, subject to the agreement of such date by the Sponsor and Ellipse.

8.1.4 Ellipse shall inform the Trustee in writing of the admission of any Participating Employer.

### **8.2 Employer ceasing to participate**

8.2.1 A Participating Employer shall cease to participate in the Trust on the date their cover under the Policy is terminated unless a replacement Policy is effected. Such a replacement policy shall commence not later than the date on which the previous policy terminated, and the Participating Employer shall notify the Sponsor and the Trustee of the details of the replacement Policy.

8.2.2 Where cover under a Policy has not terminated all (and not some only) of the Participating Employers covered under the Policy may nonetheless cease to participate in the Trust by giving one month’s written notice to the Sponsor and

Ellipse substantially in the form attached to the Rules at Appendix 2.

8.2.3 Ellipse shall inform the Trustee in writing of the termination of any Participating Employer's participation.

### **8.3 Obligations of Participating Employers**

8.3.1 Each of the Participating Employers agrees to be bound by the provisions of the Rules and the provisions of the Policy and to comply with all the conditions of the Policy that apply to the Participating Employer.

8.3.2 Nothing in the Rules restricts the right of a Participating Employer to terminate the engagement of any of its Employees who is a Member.

## **9. SUBSTITUTION OF SPONSOR**

9.1.1 Subject to the consent of Ellipse and the Sponsor at the time (unless it has been dissolved), any Participating Employer may become the Trust's sponsor (the new Sponsor) provided that they execute a deed of substitution in favour of the Trustee (whose agreement shall not be required) under which they assume the responsibilities of the Sponsor under the Trust and agree to observe and perform the provisions of the Trust applicable to them as the Sponsor.

9.1.2 From a date that Ellipse, the Sponsor and the new Sponsor agree, the Sponsor shall be released from all obligations in relation to the Trust and all other provisions of the Trust shall take effect as if the new Sponsor had originally been and is the Sponsor.

## **10. AMENDMENT**

10.1.1 Ellipse may without prior notice to the Members add to, delete or alter the terms of the Trust Deed and Rules (and any subsequent deed). Any alteration shall be effected in writing by Ellipse and may have retrospective or prospective effect and shall be notified in writing to the Sponsor and the Trustee.

10.1.2 Ellipse shall notify the Participating Employers in writing where, in the reasonable opinion of Ellipse, such alteration materially affects the Participating Employers' participation in the Trust.

## **11. TERMINATION**

### **11.1 Termination of the Trust by notice**

11.1.1 The Sponsor shall at any time have the right to terminate the Trust provided that:

- (a) termination shall not have retrospective effect; and
- (b) one month's prior written notice must be given to the Trustee and Participating Employers.

11.1.2 Ellipse shall at any time have the right to terminate the Trust provided that:

- (a) termination shall not have retrospective effect; and
- (b) one month's prior written notice must be given to the Trustee and Participating Employers.

## **11.2 Insolvency of the Sponsor**

11.2.1 The Trust shall be terminated if the Sponsor enters into liquidation or its undertaking is acquired by or vested in another person or it is dissolved, provided a new Sponsor has not been substituted and the Trustee is of the opinion there is no reasonable expectation of a new Sponsor being substituted.

## **11.3 No Policy in force**

11.3.1 The Trust shall be terminated if no in force Policy is held by any Participating Employer.

## **11.4 Termination of the Trust by elapse of time**

11.4.1 The Trust shall be terminated on the eighth anniversary of its commencement.

## **11.5 Winding up the Trust following termination**

11.5.1 Where Benefit is being held by the Trustee upon trust or where any claims in respect of Benefit have been notified to Ellipse, the provisions of the Trust shall continue to apply and termination under Rules 11.1, 11.2 and 11.3 shall not have effect until the last remaining Benefit is paid or applied.

11.5.2 Other than the payment of Benefit due under Rule 7 on termination of the Trust neither the Trustee nor Ellipse shall be responsible for the payment of any outstanding liabilities of the Trust at the date of its termination except to the extent there are Trust assets available to the Trustee that are not Benefit being held on trust.

11.5.3 Upon completion of the matters detailed above the Trust trusts shall be dissolved.



## **11.6 Perpetuity**

11.6.1 If the perpetuity rules apply to the Trust, the perpetuity period applicable to the Trust shall be 125 years from the date of commencement of the Trust or such longer period as may be permitted by law.

11.6.2 The Trust shall be terminated and wound up at a date two years before the end of the perpetuity period.

## **12. THIRD PARTY RIGHTS**

12.1.1 Except as expressly provided elsewhere in the Trust Deed or the Rules in respect of the Trustee or Ellipse, a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

**APPENDIX 1**

**EXCEPTED GROUP LIFE ASSURANCE TRUST**

TO: (the Sponsor)

**Notice of Participation**

This notice of participation is made in accordance with Rule 8.1 of the Sponsor's Excepted Group Life Assurance Trust (the "Trust") established for the purpose of providing lump sum death benefits for the employees of Participating Employers.

, (the "New Participating Employer") wishes to become a participating employer of the Trust with effect from [date] , and agrees to comply with the provisions of the Trust relating to it as a participating employer.

Please could you counter sign this notice in the space provided to confirm your agreement to admit the New Participating Employer to participation in the Trust.

Signed on behalf of

.....Director/Secretary

Dated .....

The Sponsor hereby consents to the admission of the New Participating Employer to participation in the Trust as set out above.

Signed on behalf of the Sponsor

.....Director/Secretary

Dated .....

APPENDIX 2

EXCEPTED GROUP LIFE ASSURANCE TRUST

TO: ERGO Lebensversicherung AG UK Branch (Trading As Ellipse)  
and (the Sponsor)

**Notice of termination of participation**

This notice of termination is made in accordance with Rule 8.2 of the Sponsor's Excepted Group Life Assurance Trust (the "**Trust**") established for the purpose of providing lump sum death benefits for the employees of participating employers.

(the "**Participating Employer**") is a participating employer of the Trust.

The Participating Employer wishes to terminate its participation in the Trust with effect from [termination date] being not less than one month from the date of this notice.

The Participating Employer undertakes to comply with provisions of the Trust relating to matters arising during the period of its participation.

Signed on behalf of

.....Director/Secretary

Dated .....