

IN THE MATTER OF AXA WEALTH LIMITED

- and -

IN THE MATTER OF PHOENIX LIFE LIMITED

- and -

IN THE MATTER OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

SCHEME

for the transfer of the whole of the business of

AXA Wealth Limited

to

Phoenix Life Limited

The logo for Hogan Lovells, consisting of the words "Hogan" and "Lovells" stacked vertically in a serif font, enclosed within a square border.

Ref: C1/JSR/CSR/5486820

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PART A - DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Scheme, unless the subject or context requires otherwise, the following expressions bear the meanings respectively set opposite them:

"Actuary" means the person approved to perform the "Chief Actuary function" on behalf of an insurer in accordance with the Insurance – Senior Insurance Managers Functions part of the PRA Rulebook;

"Aviva LPUK" means Aviva Life & Pensions UK Limited, a company incorporated in England and Wales with registered number 3253947 whose registered office is at Wellington Road, York, YO90 1WR, to which certain assets, liabilities and business of WLUK were transferred pursuant to schemes which became effective on 28 December 2013 (transferring such business from WLUK to FLP) and [1 October 2017] (transferring such business from FLP to Aviva Life & Pensions UK Limited), including certain rights under the AWL-WLUK Scheme for WLUK to be consulted in relation to changes to AWL's Linked Funds that affect the business of WLUK or any of its policyholders;

"AWL" means AXA Wealth Limited, a company incorporated in England and Wales with registered number 1225468 whose registered office is at 1 Wythall Green Way, Wythall, Birmingham, B47 6WG;

"AWL-FLC Scheme" means the scheme approved by order of the Court dated 14 October 2011, providing for the transfer to AWL of certain Long-Term Insurance Business of FLC;

"AWL Pension Schemes" means:

- (a) the Wealth Personal Pension Scheme A set up by a trust deed and rules dated 1 June 2015 and amended by a deed of removal and appointment dated 1 June 2015 and a deed of amendment dated 6 September 2016; and
- (b) the Wealth Personal Pension Scheme B set up by a trust deed and rules dated 1 June 2015 and amended by a deed of removal and appointment dated 1 June 2015 and a deed of amendment dated 6 September 2016;

"AWL Shareholders' Fund" means the Shareholders' Fund of AWL;

"AWL-WLUK Scheme" means the scheme approved by order of the Court dated 15 September 2011, providing for the transfer of certain Long-Term Insurance Business between AWL and WLUK;

"Capital Resources Requirements" means, as at the Transfer Date, the higher of:

- (a) the technical provisions and own funds which AWL is required to hold in accordance with the requirements of the Technical Provisions, Own Funds, Solvency Capital Requirements – General Provisions, Solvency Capital Requirement – Standard Formula, Solvency Capital Requirement – Internal Models and Minimum Capital Requirement parts of the PRA Rulebook (in each case as applicable to AWL); and
- (b) the amount determined by the governing body of AWL in accordance with its capital policy;

"Court" means the High Court of Justice in England and Wales;

"CRR Amount" means such amount of assets as the board of AWL, having obtained appropriate actuarial advice, shall determine as sufficient to ensure that AWL is able to meet its Capital Resources Requirements immediately following the Transfer Date;

"Effective Date" means 23.59 BST on 30 September 2017, except where it relates to the transfer of (i) any asset falling within paragraph (b) of the definition of Transferred Assets or (ii) any liability falling within paragraph (b) of the definition of Transferred Liabilities, in which case the Effective Date shall be the date on which that Transferred Asset or Transferred Liability came into the ownership of, or became attributable to, AWL;

"Encumbrance" means any mortgage, charge (fixed or floating), pledge, lien, option, right to acquire, right of pre-emption, assignment by way of security or trust arrangement for the purpose of providing security or other security interest of any kind (including any retention arrangement), or any agreement to create any of the foregoing;

"Excluded Policies" means Policies of AWL under which any liability remains unsatisfied or outstanding at the Transfer Date:

- (a) which were concluded, for the purposes of paragraph 1(2A) of Schedule 12 to FSMA, in an EEA State other than the United Kingdom and the appropriate Regulator has not prior to the making of the Order by which the Court sanctions this Scheme provided the certificate referred to in paragraph 3A of Schedule 12 to FSMA with respect to the relevant EEA State;
- (b) which are not otherwise capable of being transferred pursuant to section 111 of FSMA at the Transfer Date; or
- (c) which are Guernsey Policies (to the extent that, and for so long only as, the Guernsey Scheme has not yet received the requisite court approval and become operative in accordance with its terms),

and any further Policy issued by AWL pursuant to the exercise of any right or option under such a Policy;

"Excluded Policies Reassurance Arrangement" means a reassurance arrangement implemented in respect of Excluded Policies pursuant to and in accordance with paragraph 6.1;

"Existing AWL Schemes" means the AWL-FLC Scheme and the AWL-WLUK Scheme;

"Existing Phoenix Schemes" means the Phoenix 2009 Scheme, the Phoenix 2011 Scheme and the Phoenix 2012 Scheme;

"Financial Ombudsman Service" means the scheme provided under Part XVI of FSMA (The Ombudsman Scheme) under which certain disputes may be resolved by an independent person;

"FLC" means Friends Life Company Limited, a company incorporated in England and Wales with registered number 3291349 whose registered office is at Pixham End, Dorking, Surrey, RH4 1QA;

"FLP" means Friends Life and Pensions Limited, a company incorporated in England and Wales with registered number 475201 whose registered office is at Pixham End, Dorking, Surrey, RH4 1QA;

"Former AWL Linked Fund" means any Linked Fund established by Phoenix:

- (a) pursuant to paragraph 15 to receive the property and associated liabilities comprised in each linked fund of AWL immediately prior to the Transfer Date;
- (b) in connection with the amalgamation or division of a Linked Fund pursuant to paragraph 18.2; or
- (c) at any time following the Transfer Date as a new Linked Fund for its Corporate Trustee Investment Plan business;

"FSMA" means the Financial Services and Markets Act 2000;

"Fund" means (as the context requires) the Non-Profit Fund, a WP Fund, any other sub-fund of the Phoenix Long-Term Insurance Fund established in accordance with this Scheme or the Existing Phoenix Schemes, or the Phoenix Shareholders' Fund;

"Group" means, in relation to AWL or Phoenix:

- (a) AWL or Phoenix, as applicable;
- (b) its holding companies from time to time;
- (c) its subsidiaries from time to time; and
- (d) the subsidiaries from time to time of any such holding company;

"Guernsey Business" means the long-term business (as such expression is interpreted for the purpose of the Insurance Business (Bailiwick of Guernsey) Law 2002) of AWL at the Guernsey Transfer Date, the transfer of which to Phoenix requires the sanction of the Guernsey Court pursuant to section 44(1) of the Insurance Business (Bailiwick of Guernsey) Law, 2002;

"Guernsey Court" means the Royal Court of Guernsey;

"Guernsey Effective Date" has the meaning given in the Guernsey Scheme;

"Guernsey Order" means an order of the Guernsey Court sanctioning the Guernsey Scheme;

"Guernsey Policy" means a Policy of AWL under which any liability remains unsatisfied at the Guernsey Transfer Date which forms part of the Guernsey Business;

"Guernsey Scheme" means a scheme of transfer in respect of the Guernsey Policies pursuant to section 44(1) of the Insurance Business (Bailiwick of Guernsey) Law, 2002;

"Guernsey Transfer Date" means the time and date on which the Guernsey Scheme becomes operative in accordance with its terms;

"Linked Fund" means an internal linked fund maintained by AWL prior to the Transfer Date or by Phoenix prior to or following the Transfer Date for the purpose of calculating benefits payable under Linked Policies (including such a fund maintained for the purpose of calculating benefits linked to the value of external unit trusts);

"Linked Policies" means Policies under which the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the Policies) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified);

"Long-Term Insurance Business" means the business of effecting or carrying out long-term insurance contracts as principal, being contracts falling within Part II of Schedule 1 to the RAO;

"Long-Term Insurance Fund" means the fund maintained for accounting purposes by AWL or Phoenix (as the context requires) comprising all of the assets identified to cover its long-term insurance liabilities;

"Mis-selling Liabilities" means any liabilities, losses, costs and/or expenses (whether incurred as a result of any agreed settlement or compromise (including any ex gratia payment) or otherwise and including the costs of investigating, dealing with, challenging or defending any matter from time to time) in respect of the promotion, marketing, arrangement or sale of any Transferred Policies (or any policies or options whose proceeds were used, wholly or in part, to pay the premium for a Transferred Policy) by or on behalf of AWL (including advice provided by or on behalf of AWL and whether in written, electronic or other form), including liabilities, losses, costs and/or expenses arising from:

- (a) any complaint, claim, legal action or proceedings (including arbitration, mediation or any other dispute resolution procedure) brought against AWL by or on behalf of any person or group of persons, including pursuant to the Financial Ombudsman Service or any successor thereto or replacement thereof;
- (b) AWL complying with (or failing to comply with) applicable law or with rules, regulations, directions, guidance or industry practice (whether formal or informal) set by or given by any regulatory authority; or
- (c) any penalty or fine levied, or which results from or arises in connection with any disciplinary action undertaken, by any regulatory authority;

"Non-Profit Fund" means the fund bearing the name "Non-Profit Fund" within the Phoenix Long-Term Insurance Fund, which is maintained for accounting purposes to identify Long-Term Insurance Business which is shareholder-backed business and is not allocated to the WP Funds;

"Order" means an order made by the Court pursuant to section 111 of FSMA sanctioning this Scheme and any order (including any subsequent order) in relation to this Scheme made by the Court pursuant to section 112 of FSMA;

"Phoenix" means Phoenix Life Limited, a company incorporated in England and Wales with registered number 1016269 whose registered office is at 1 Wythall Green Way, Wythall, Birmingham, B47 6WG;

"Phoenix 2009 Scheme" means the scheme approved by order of the Court dated 30 January 2009, providing for the transfer to Phoenix of certain business of Scottish Mutual Assurance Limited and Scottish Provident Limited and providing for the management of the Phoenix Long-Term Insurance Fund;

"Phoenix 2011 Scheme" means the scheme approved by order of the Court dated 11 February 2011, providing for the transfer to Phoenix of the business of Phoenix & London Assurance Limited;

"Phoenix 2012 Scheme" means the scheme approved by order of the Court dated 28 March 2012, providing for the transfer to Phoenix of certain business of NPI Limited and National Provident Life Limited;

"Phoenix Capital Policy" means the Phoenix capital policy (under which Phoenix intends to hold amounts of capital in excess of liabilities) as set out in Schedule 7 to the Phoenix 2009 Scheme (and as amended or adjusted from time to time in accordance with the provisions of the Phoenix 2009 Scheme);

"Phoenix Chief Actuary" means the Actuary of Phoenix from time to time;

"Phoenix Board" means the board of directors of Phoenix from time to time;

"Phoenix Long-Term Insurance Fund" means the Long-Term Insurance Fund of Phoenix;

"Phoenix Shareholders' Fund" means the Shareholders' Fund of Phoenix;

"Policy" has the meaning set out in the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 (S1 2001 / 2361);

"Proceedings" means any claim, counterclaim, complaint, petition, suit, appeal or other legal process (including any application whether current or future), whether intended to have interim or final legal effect in relation to its subject matter, before any court, governmental authority, regulatory authority, tribunal, arbitration panel, ombudsman or other body subsisting or empowered by law or regulation or by the provisions of an agreement;

"RAO" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544);

"Records" means all documents, files and other records, whether in physical or electronic form, relating to the Transferred Policies, the Transferred Assets, the Residual Assets, the Transferred Liabilities and the Residual Liabilities which are in the possession of, or under the control of, AWL;

"Regulators" means, as the context requires, the Financial Conduct Authority or the Prudential Regulation Authority or both, or such other governmental, statutory or other authority or authorities as shall from time to time carry out such functions in relation to Long-Term Insurance Business carried on in the United Kingdom as were at the date of this Scheme allocated to the Financial Conduct Authority and the Prudential Regulation Authority under FSMA;

"Residual Assets" means:

- (a) any property of AWL attributable to the Transferred Business (including any right, benefit or power of AWL under any Transferred Policy) in respect of which the Court has declined to order the transfer to Phoenix under section 112(2) of FSMA at the Transfer Date;
- (b) any property of AWL attributable to the Transferred Business (including any right or benefit under a Transferred Policy) where AWL and Phoenix agree prior to the Transfer Date or the Subsequent Transfer Date applicable thereto that its transfer should be delayed or it should not be transferred at all;
- (c) any property of AWL attributable to the Transferred Business which is outside the jurisdiction of the Court or in respect of which the transfer pursuant to an order of the Court is not recognised by the laws of the jurisdiction in which the property is situated;

- (d) any property of AWL attributable to the Transferred Business which cannot be transferred to or vested in Phoenix on the Transfer Date for any other reason;
- (e) assets representing the CRR Amount; and
- (f) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, or any other property or rights earned or received from time to time after the Transfer Date but prior to any relevant Subsequent Transfer Date in respect of any such property referred to in paragraphs (a) to (e) of this definition;

"Residual Liability" means:

- (a) any liability of AWL that would be comprised in the Transferred Liabilities but in respect of which the Court has declined to order the transfer to Phoenix under section 112(2) of FSMA at the Transfer Date;
- (b) any liability of AWL that would be comprised in the Transferred Liabilities but where AWL and Phoenix agree in writing prior to the Transfer Date or the Subsequent Transfer Date applicable thereto that its transfer should be delayed or it should not be transferred at all;
- (c) any liability of AWL that would be comprised in the Transferred Liabilities but which is outside the jurisdiction of the Court or in respect of which the transfer pursuant to an order of the Court is not recognised by the laws of any applicable jurisdiction or in respect of which further steps are necessary to effect the transfer pursuant to the laws of any applicable jurisdiction;
- (d) any liability of AWL that would be comprised in the Transferred Liabilities but which cannot be transferred to or vested in Phoenix on the Transfer Date for any other reason; or
- (e) any liability of AWL in respect of a Residual Asset or any liability arising from any liabilities referred to in paragraphs (a) to (d) of this definition, which arises after the Transfer Date but prior to any relevant Subsequent Transfer Date, including any liability to taxation;

"Scheme" means this scheme made pursuant to Part VII of FSMA in its original form or with or subject to any modification, addition or condition which may be approved or imposed in accordance with paragraph 23;

"Shareholders' Fund" means the property and liabilities of AWL or Phoenix (as the context may require) other than those attributable to or represented by its Long-Term Insurance Fund;

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

- (a) in respect of any Residual Asset falling within paragraph (a), (c) or (d) of the definition of Residual Assets, and of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (a), (c) or (d) of the definition of Residual Liability, the date on which any impediment to its transfer shall have been removed or overcome;
- (b) in respect of any Residual Asset falling within paragraph (b) or (f) of the definition of Residual Assets, and of any Residual Liability which is attributable to or

connected with that Residual Asset or which falls within paragraph (b) of the definition of Residual Liability, the date on which AWL and Phoenix agree the transfer should take effect; and

- (c) in respect of any assets representing the CRR Amount, the date on which, in the opinion of the board of directors of AWL, having obtained appropriate actuarial advice, such assets or part thereof are no longer required to be retained in AWL in order for AWL to be able to meet its Capital Resources Requirements;

"Switch" means any transaction effected by the holder of any Linked Policy pursuant to which:

- (a) the value of the Linked Policy ceases to be determined (or becomes determined to a lesser degree) by reference to units in any particular Linked Fund available in relation to such Linked Policy and becomes determined (or determined to a greater degree) by reference to units in a different Linked Fund; and/or
- (b) premiums payable in the future under such Linked Fund cease to be allocated to (or become allocated to a lesser degree to) units in any particular Linked Fund available in relation to such Linked Policy and become allocated to (or allocated to a greater degree to) units in a different Linked Fund,

and the verb **"Switch"** shall be construed accordingly;

"tax" or **"taxation"** means all forms of tax, duty, rate, levy, contribution, charge or other imposition, liability or withholding in the nature of tax whenever or by whatever authority imposed and whether of the United Kingdom or elsewhere, together with any interest, penalty or fine in connection with taxation;

"Transfer Date" means the time and date this Scheme becomes operative in accordance with paragraph 21;

"Transferred Assets" means all property:

- (a) of AWL in whatsoever capacity held (including as trustee) and wheresoever situated comprised in or attributable to the Transferred Business as at the Effective Date including:
 - (i) the rights, benefits and powers of AWL under or by virtue of the Transferred Policies;
 - (ii) all rights and claims (present or future, actual or contingent) against any third party in relation to the Transferred Business or arising as a result of AWL having carried on the Transferred Business;
 - (iii) the rights, benefits and powers of AWL under any contracts in respect of the Transferred Business (including any reinsurance agreements or arrangements pursuant to which the Transferred Business are reinsured);
 - (iv) the Records, including all rights, title and interest of AWL in the Records;
 - (v) any assets relating to taxation; and
 - (vi) all property attributable to the Excluded Policies (except if and for so long as such property constitutes a Residual Asset); and
- (b) at any time between the Effective Date and the Transfer Date which was not property of AWL at 23.59 BST on 30 September 2017 but which would have fallen

within paragraph (a) of this definition of Transferred Assets had it been property of AWL at that time,

but excluding (i) the Residual Assets and (ii) any rights, benefits and powers under or relating to the Excluded Policies;

"Transferred Business" means the whole business, undertaking and associated activities of AWL as at the Transfer Date (including (i) all activities carried out in any capacity, including as trustee, in connection with or for the purposes of that business and any proposals for insurance not yet accepted and any offer or invitation for insurance made by AWL and (ii) the AWL Shareholders' Fund), but excluding the Excluded Policies;

"Transferred Liabilities" means all liabilities of AWL:

- (a) comprised in or attributable to the Transferred Business as at the Effective Date, including:
 - (i) the liabilities under or relating to the Transferred Policies;
 - (ii) the liabilities under any reinsurance agreements in respect of the Transferred Business;
 - (iii) any liability to taxation of AWL attributable to the Transferred Business or to the transfer of any such business; and
 - (iv) all Mis-selling Liabilities; and
- (b) at any time between the Effective Date and the Transfer Date which were not liabilities of AWL at 23.59 BST on 30 September 2017 but which would have fallen within paragraph (a) of this definition of Transferred Liabilities had they been liabilities of AWL at that time,

but excluding the Residual Liabilities and any liabilities attributable to the Excluded Policies;

"Transferred Policies" means every Policy of AWL:

- (a) under which any liability remains unsatisfied or outstanding at the Transfer Date, including:
 - (i) Policies written or assumed by AWL which have lapsed on or before the Transfer Date and which are reinstated by Phoenix after the Transfer Date;
 - (ii) all proposals for insurance made to AWL and every offer or invitation for insurance made by AWL before the Transfer Date which have not become Policies in force by the Transfer Date but which subsequently become Policies; and
 - (iii) subject to paragraph 2.5, the Guernsey Policies (with effect from Guernsey Transfer Date only); and
- (b) written at any time between the Effective Date and the Transfer Date which were not policies of AWL at 23.59 BST on 30 September 2017 but which would have fallen within part (a) of this definition of Transferred Policies had they been policies of AWL at that time,

but excluding the Excluded Policies;

"**WLUK**" means Friends Life WL Limited, a company incorporated in England and Wales with registered number 316645 whose registered office is at Pixham End, Dorking, Surrey, RH4 1QA, and which was formerly known as Winterthur Life UK Limited; and

"**WP Fund**" means the with-profits sub-funds of the Phoenix Long-Term Insurance Fund established or maintained in accordance with the Existing Phoenix Schemes.

1.2 In this Scheme:

- (a) "**including**" or "**includes**" means including or includes without limitation;
- (b) "**liabilities**" includes debts, liabilities, duties and obligations whether direct or indirect, accrued or unaccrued, liquidated or to become liquidated of every description (whether present or future, actual or contingent);
- (c) "**property**" or "**assets**" includes property (including real property and charges registered at the Land Registry within England and Wales and at the Registers of Scotland in Scotland and elsewhere and unregistered real property and charges), assets, Cash, Encumbrances, causes of action, rights (including contingent rights as to the repayment of tax) and powers of every description (whether present or future, actual or contingent) and includes property held on trust and securities, benefits, income or interest accrued but unpaid, powers of any description and any interest whatsoever in any of the foregoing;
- (d) "**transfer**" includes (as the context may require) "assign", "assignation" or "assignment", "dispose" or "disposal," or "convey" or "conveyance";
- (e) "**variation**" includes any amendment, modification, variation, supplement, deletion, replacement or termination, however effected;
- (f) any reference to the singular shall include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine and neuter and vice versa;
- (g) any reference in this Scheme to a statute, a statutory provision or any subordinate legislation shall be deemed to include a reference to that statute, statutory provision or subordinate legislation as amended, replaced or re-enacted on or before the Transfer Date and any reference to a statute or statutory provision shall be deemed to include a reference to any subordinate legislation made thereunder (as amended, replaced or re-enacted on or before the Transfer Date);
- (h) any reference to any rules or regulations issued by the Regulators shall be deemed to include a reference to such rules or regulations as at the date of this Scheme;
- (i) expressions used in this Scheme which have meanings under FSMA shall bear those meanings, including:
 - (i) "**State of the commitment**" which bears the meaning set out in paragraph 6 of Schedule 12 to FSMA; and
 - (ii) "**EEA State**" which bears the meaning set out in paragraph 8 of Schedule 3 to FSMA;
- (j) the expressions "**holding company**" and "**subsidiary**" shall have the same meanings as in the Companies Act 2006;

- (k) references to paragraphs or Parts are to paragraphs or Parts of this Scheme;
- (l) headings are inserted for convenience only and shall not affect the construction of this Scheme;
- (m) any reference to a person shall include a reference to a body corporate, a partnership, an unincorporated association or to a person's executors or administrators, and for the avoidance of doubt, shall include a trustee;
- (n) if a period of time is specified from a given day or date or from the day or date of an actual event, it shall be calculated exclusive of that day or date;
- (o) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form; and
- (p) any reference to a board of directors of a company shall be deemed to include a reference to a duly constituted committee or duly authorised representative of that board of directors.

PART B – INTRODUCTION

2. INTRODUCTION

- 2.1 AWL has a Part 4A permission under FSMA to carry on Long-Term Insurance Business in the United Kingdom in classes I, II, III, IV, VI and VII as set out in Part II of Schedule 1 to the RAO.
- 2.2 Phoenix has a Part 4A permission under FSMA to carry on Long-Term Insurance Business in the United Kingdom in classes I, II, III, IV, VI and VII as set out in Part II of Schedule 1 to the RAO.
- 2.3 The purpose of this Scheme is to effect the transfer from AWL to Phoenix, subject to the terms of this Scheme, of the whole of AWL's business.
- 2.4 The Phoenix Long-Term Insurance Fund is managed in accordance with the terms of the Existing Phoenix Schemes. Accordingly, following the transfer of AWL's business to Phoenix, the Transferred Business will also (save as provided for under this Scheme) be managed in accordance with the terms of the Existing Phoenix Schemes. This includes, pursuant to paragraph 27 of and Schedule 7 to the Phoenix 2009 Scheme, the terms of the Phoenix Capital Policy, which requires Phoenix to hold amounts of capital in excess of its regulatory capital requirements. The Phoenix Capital Policy may only be amended as provided for under the terms of the Phoenix 2009 Scheme.
- 2.5 It is also proposed that the transfer of the Guernsey Policies to Phoenix shall only take place to the extent that the transfer of such Policies to Phoenix by the Guernsey Scheme has been approved by the Guernsey Court and has become operative and effective. To the extent that the Guernsey Transfer Date does not fall on or before the Transfer Date, the Guernsey Policies shall be reassured to Phoenix on the terms set out in the Excluded Policies Reassurance Arrangement until the Guernsey Transfer Date.

PART C - TRANSFER

3. TRANSFER OF BUSINESS

3.1 Each part of the Transferred Business, the Residual Assets and the Residual Liabilities shall be transferred to and be vested in Phoenix in accordance with this Scheme, so that:

- (a) subject to paragraph 8, on the Transfer Date but with effect from the Effective Date, each Transferred Asset and all the interest of AWL in it shall, by the Order and without any further act or instrument, be transferred to and be vested in Phoenix, subject to all Encumbrances (if any) affecting such asset in accordance with this Scheme;
- (b) subject to paragraph 8, on and with effect from each Subsequent Transfer Date, each Residual Asset to which such Subsequent Transfer Date applies and all the interest of AWL in it shall, by the Order and without any further act or instrument, be transferred to and be vested in Phoenix, subject to all Encumbrances (if any) affecting such asset in accordance with this Scheme;
- (c) on the Transfer Date but with effect from the Effective Date, each Transferred Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of Phoenix in accordance with this Scheme and shall cease to be a liability of AWL; and
- (d) on and with effect from each Subsequent Transfer Date, each Residual Liability to which such Subsequent Transfer Date applies shall, by the Order and without any further act or instrument, be transferred to and become a liability of Phoenix in accordance with this Scheme and shall cease to be a liability of AWL.

3.2 Phoenix shall accept without investigation or requisition such title as AWL shall have to the Transferred Assets and, at any Subsequent Transfer Date, to each Residual Asset then transferred.

3.3 The Transferred Assets, Residual Assets, Transferred Liabilities and Residual Liabilities shall be allocated in accordance with Part D.

3.4 On the Transfer Date but with effect from the Effective Date, Phoenix shall:

- (a) succeed to all rights, liabilities and obligations of AWL in respect of any personal data which relates to the Transferred Business and which is subject to the Data Protection Act 1998;
- (b) become the data controller of any personal data which relates to the Transferred Business and which is subject to the Data Protection Act 1998 in place of AWL and shall be deemed to have been the controller of all such data at all times when personal data was processed; and
- (c) in respect of any personal data which relates to the Transferred Business be under the same duty by virtue of any law as AWL was under to respect the confidentiality and privacy of any person in relation to that personal data and shall be bound by any specific notice or consent given, or request made by, the data subject which was binding on either AWL or Phoenix and which required either AWL or Phoenix not to use the personal data for marketing purposes,

and in any consent given by a data subject in respect of such data as is mentioned in this paragraph 3.4, any reference to AWL (or to any member of AWL's Group) shall be deemed to include a reference to Phoenix (and to any member of Phoenix's Group).

4. CONTINUITY OF PROCEEDINGS

- 4.1 On and with effect from the Transfer Date, any Proceedings issued, served, pending, threatened or otherwise (including future Proceedings not yet in contemplation) in connection with the Transferred Business, the Transferred Policies, the Transferred Assets, or the Transferred Liabilities in respect of which AWL is a party (including as the plaintiff, claimant, applicant, defendant, respondent, pursuer, defender or petitioner), and including any such Proceedings commenced in error against AWL on or after the Transfer Date, shall be continued or commenced by or against Phoenix and Phoenix shall be entitled to all defences, claims, counterclaims, settlements, rights of set-off and any other rights that would have been available to AWL in relation to the Transferred Business, the Transferred Policies, the Transferred Assets, the Transferred Liabilities and such Proceedings.
- 4.2 On and with effect from the Subsequent Transfer Date applicable thereto, any Proceedings issued, served, pending, threatened or otherwise (including future Proceedings not yet in contemplation) in connection with the Residual Assets or the Residual Liabilities which are to be transferred on such Subsequent Transfer Date in respect of which AWL is a party (including as the plaintiff, claimant, applicant, defendant, respondent, pursuer, defender or petitioner), and including any such Proceedings commenced in error against AWL on or after the relevant Subsequent Transfer Date, shall be continued or commenced by or against Phoenix and Phoenix shall be entitled to all defences, claims, counterclaims, settlements, rights of set-off and any other rights that would have been available to AWL in relation to the Residual Assets and the Residual Liabilities and such Proceedings. Until such Subsequent Transfer Date, the relevant Proceedings shall be continued by or against AWL, provided that AWL shall consult with Phoenix and take account of any reasonable comments made by it in relation to such Proceedings.
- 4.3 Any judgment, settlement, order or award obtained by or against AWL to the extent that it relates to any part of the Transferred Business, the Transferred Policies, the Transferred Assets, the Transferred Liabilities, the Residual Assets or the Residual Liabilities and which is not fully satisfied before the Transfer Date or, as the case may be, the applicable Subsequent Transfer Date shall, on that date and to the extent to which it was enforceable by or against AWL immediately prior to such date, become enforceable by or against Phoenix (to the exclusion of AWL).

5. RIGHTS AND OBLIGATIONS IN RELATION TO THE TRANSFERRED BUSINESS

- 5.1 On the Transfer Date but with effect from the Effective Date, Phoenix shall become entitled to all the rights, benefits and powers of AWL whatsoever subsisting on the Effective Date under or by virtue of the Transferred Policies.
- 5.2 Without prejudice to the generality of paragraph 5.1, where the benefits of any Transferred Policy are held under the terms of a trust, such terms, together with the terms of any rules applicable to any pension scheme in the case of any pension scheme under which benefits are referable to a Transferred Policy, shall operate and be construed on the Transfer Date but with effect from the Effective Date on a basis which is consistent with the transfer of such Transferred Policy in accordance with the provisions of this Scheme. For the avoidance of doubt:
- (a) where the consent of AWL is required under any such terms, the consent of Phoenix shall, from the Transfer Date, instead be treated as required; and
 - (b) where a power to appoint trustees under such terms is conferred on AWL, that power shall, from the Transfer Date, instead be treated as conferred on Phoenix.

- 5.3 Every person who is a holder of any of the Transferred Policies or is a party to, or has the benefit of, any other agreement with AWL relating to the Transferred Business shall, on and with effect from the Transfer Date, become entitled, in succession to, and to the exclusion of, any rights which he may have had against AWL under any of the Transferred Policies or any other such agreement relating to the Transferred Business, to the same rights against Phoenix (subject to the terms of this Scheme) as were available to him against AWL under such Policies or such other agreement relating to the Transferred Business and (as regards Transferred Policies under which premiums or other sums attributable or referable thereto continue to be payable) shall, on and with effect from the Transfer Date, account to Phoenix for any further or additional premiums or other sums attributable or referable thereto as and when the same become due and payable.
- 5.4 If any person entitled to do so with respect to a Transferred Policy exercises any right or option granted under the terms of that Policy and either:
- (a) the right or option provides for a new, additional or replacement Policy to be issued; or
 - (b) it is appropriate in the opinion of the Phoenix Board, having obtained the advice of the Phoenix Chief Actuary, in order to comply with that right or option to issue a new Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue by Phoenix of a Policy which complies with the terms of such right or option, but (without prejudice to the right of such person to have the right or option satisfied by the issue by Phoenix of such a Policy) if Phoenix is not at the time of the exercise of such right or option writing Policies complying exactly with the Policy to which such right or option refers, Phoenix shall be entitled to offer to such person as an alternative (and, if accepted, in lieu thereof) the Policy commonly offered by Phoenix which Phoenix considers to be the nearest equivalent Policy in accordance with the terms and conditions applicable to Policies of Phoenix at that time, provided that (i) the Phoenix Board is satisfied, having obtained appropriate advice, that accepting such alternative Policy would not have a material adverse effect on the interests of the relevant person and (ii) the issue of such alternative Policy would not in the opinion of the Phoenix Board (having regard to appropriate advice) result in a liability or in an increase in liability to taxation of the holder of such Policy (or, in the event that such liability or increase in liability would occur, Phoenix shall have the option to indemnify the policyholder in full and to issue another Policy pursuant to this paragraph).

- 5.5 All references relating to the Transferred Business in any Transferred Policy or any other agreement or document (including in a contract to which AWL is party, a contract to which AWL is not party or elsewhere and whether in writing or not) to AWL, its board of directors, its Actuary or any other officers, employees or agents of AWL shall from and after the Effective Date be read as references to Phoenix, the Phoenix Board, the Phoenix Chief Actuary or any other officers, employees or agents of Phoenix respectively, as appropriate. In particular, but without limitation, all rights and duties exercisable or expressed to be exercisable or responsibilities to be performed by AWL, its board of directors, Actuary or any other officers, employees or agents of AWL in relation to any Transferred Policy or other agreement or document relating, in each case, to the Transferred Business (including in a contract to which AWL is party, a contract to which AWL is not party or elsewhere and whether in writing or not) shall, from and after the Effective Date, be exercisable or required to be performed by Phoenix, the Phoenix Board, the Phoenix Chief Actuary or any other officers, employees or agents of Phoenix respectively, as appropriate.

- 5.6 The transfer of any rights, benefits, liabilities and obligations under or in connection with any Transferred Policy, Transferred Asset, Residual Asset, Transferred Liability or Residual Liability pursuant to this Scheme shall take effect and shall be valid and binding on all parties having any interest in the same notwithstanding any restriction on transferring, assigning or otherwise dealing with the same and such transfer shall be deemed to take effect on the basis that it does not contravene any such restriction and does not give rise to any right to terminate, modify, acquire or claim an interest or right, or to treat an interest or right as terminated or modified.
- 5.7 Phoenix shall, on and from the Transfer Date, take over from AWL the administration and negotiation of proposals for insurance which would be Transferred Policies if Phoenix determined to accept them (but whether or not Phoenix does so determine). Phoenix shall bear all expenses and liabilities in relation thereto and any liability in relation to interim death benefits. Nothing contained herein shall oblige Phoenix to accept any proposal for insurance received by or on behalf of AWL before the Transfer Date but not accepted by AWL by then.
- 6. EXCLUDED POLICIES**
- 6.1 Subject to paragraph 6.3, the Excluded Policies shall not be transferred to Phoenix by this Scheme and all liabilities attributable to the Excluded Policies shall remain liabilities of AWL and be fully reinsured with effect from the Effective Date on the following basis:
- (a) all liabilities of AWL attributable to the Excluded Policies and all other amounts paid or payable by AWL in respect of the Excluded Policies shall be reinsured in their entirety to Phoenix on the Transfer Date but with effect from the Effective Date (or in the case of liabilities arising in respect of any Policy issued by AWL pursuant to paragraph 6.2, on and with effect from the date on which such Policy is issued);
 - (b) the liability of Phoenix on the Transfer Date but with effect from the Effective Date, shall be such that it will cover the full liability of AWL in respect of the rights, benefits and powers provided to holders of Excluded Policies (including any Policy issued by AWL pursuant to paragraph 6.2) shall, to the extent possible, be the same as the rights, benefits and powers which would have been provided to such holders if the Excluded Policies had been Transferred Policies; and
 - (c) the premiums payable by AWL to Phoenix in connection with the provision of the reinsurance described in this paragraph 6.1 shall comprise an amount equal to:
 - (i) the aggregate amount of the technical provisions relating to those Excluded Policies immediately prior to the Effective Date (provided that such amount shall be deemed to have been paid to Phoenix by reason of the transfer of the Transferred Assets to Phoenix pursuant to this Scheme); and
 - (ii) all subsequent premiums received by AWL in respect of such Excluded Policies at any time after the Effective Date, which premiums shall be paid to Phoenix as soon as practicable after they are received.
- 6.2 If any person entitled to do so with respect to an Excluded Policy exercises any right or option granted under the terms of that Policy and either:
- (a) the right or option provides for a new, additional or replacement Policy to be issued; or

- (b) it is appropriate in the opinion of the Phoenix Board, having obtained appropriate actuarial advice, in order to comply with that right or option to issue a new Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue by AWL of a Policy which complies with the terms of such right or option but (without prejudice to the right of such person to have the right or option satisfied by the issue by AWL of such a Policy):

- (i) Phoenix shall be entitled to offer to such person as an alternative (and, if accepted, in lieu thereof) a Policy which complies with the terms of such right or option; and
- (ii) if Phoenix is not at the time of the exercise of such right or option writing Policies complying exactly with the Policy to which the right or option refers, Phoenix shall be entitled to offer to such person as an alternative (and, if accepted, in lieu thereof) the Policy commonly offered by Phoenix which Phoenix considers to be the nearest equivalent Policy, in accordance with the terms and conditions applicable to Policies of Phoenix at that time, provided that (i) the Phoenix Board is satisfied, having obtained appropriate advice, that accepting such alternative Policy would not have a material adverse effect on the interests of the relevant person and (ii) the issue of such alternative Policy would not in the opinion of the Phoenix Board (having regard to appropriate advice) result in a liability or in an increase in liability to taxation of the holder of such Policy (or, in the event that such liability or increase in liability would occur, Phoenix shall have the option to indemnify the policyholder in full and to issue another Policy pursuant to this paragraph).

6.3 If all consents, orders, permissions or other requirements for the transfer or novation of an Excluded Policy from AWL to Phoenix are obtained:

- (a) such Excluded Policy shall be transferred to Phoenix, and shall thereafter be treated in all respects, as if it were a Transferred Policy and not an Excluded Policy; and
- (b) all property relating to, and any liability attributable to, such Excluded Policy shall be transferred to Phoenix and shall thereafter be treated in all respects as if it were a Transferred Asset or a Transferred Liability, as the case may be.

6.4 In accordance with paragraph 6.3, Guernsey Policies shall be treated for all purposes of this Scheme as if they were Transferred Policies with effect from the Guernsey Transfer Date and shall, on the Guernsey Transfer Date, be transferred to, and vested in, Phoenix by the Order (in addition to the Guernsey Order).

7. PREMIUMS, MANDATES AND OTHER PAYMENTS

7.1 All premiums attributable or referable to the Transferred Policies shall, on and after the Transfer Date, be payable to Phoenix and shall on the Transfer Date but with effect from the Effective Date be receivable and received by Phoenix, and shall be allocated to the Non-Profit Fund.

7.2 Any mandate or other instruction in force on the Transfer Date (including any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums or other amounts payable to AWL under or in respect of any Transferred Policy or Transferred Asset shall thereafter take effect as if it had provided for and authorised such payment to Phoenix.

7.3 Any mandate or other instruction in force on the Transfer Date as to the manner of payment of any sum payable by AWL under any of the Transferred Policies shall, on and from the Transfer Date, continue in force as an effective authority to Phoenix.

8. DECLARATION OF TRUST BY AWL

8.1 If any asset of AWL is not transferred to and vested in Phoenix on the Transfer Date by reason of such asset being a Residual Asset or for any other reason then AWL shall, from the Transfer Date but with effect from the Effective Date (but save to the extent that giving effect to such a trust would require a consent or waiver which has not been obtained or that such a trust would not be recognised by any applicable law or that AWL and Phoenix agree in writing not to give effect to such a trust for any reason), hold such asset, together with any proceeds of sale or income or other right accrued or return arising in respect thereof, as trustee for Phoenix.

8.2 Unless otherwise agreed by AWL and Phoenix, AWL shall be subject to Phoenix's directions in respect of any assets referred to in paragraph 8.1 from the Transfer Date until they are transferred to or otherwise vested in Phoenix or disposed of (whereupon AWL shall account to Phoenix for the proceeds of sale thereof), and Phoenix shall have authority to act as AWL's attorney in respect of such property for all such purposes.

8.3 Unless otherwise agreed by AWL and Phoenix, in the event of any payment being made to, property being received by, or right being conferred upon AWL after the Transfer Date in respect of the Transferred Business, any Transferred Asset or any Residual Asset, AWL shall, as soon as is reasonably practicable after its receipt, pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to, or in accordance with the directions of, Phoenix and Phoenix shall indemnify AWL on demand against any costs incurred in making any such payment or transfer.

9. INDEMNITIES IN FAVOUR OF AWL

9.1 From the Transfer Date but with effect from the Effective Date, Phoenix shall discharge on AWL's behalf or, failing that, shall indemnify AWL against:

(a) charges, costs and claims arising in respect of all Transferred Liabilities and Residual Liabilities which are not, or are not capable of being, transferred by this Scheme or by a vesting order pursuant to section 112(1) of FSMA (whether made before, on or after the Transfer Date) (other than liabilities which are the subject of paragraph 9.1(b) or paragraph 9.2) until the relevant liability is transferred to or becomes a liability of Phoenix; and

(b) any amount paid by AWL in respect of any Transferred Liabilities and Residual Liabilities of AWL which are, whether wholly or in part, the subject of a policy of indemnity insurance or a claim or right of recovery against a third party, but only to the extent that AWL, 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 reasonable endeavours to do so).

9.2 From the Transfer Date but with effect from the Effective Date, Phoenix shall indemnify AWL against any costs and/or expenses which it may incur in pursuing any claim under any such policy of indemnity insurance or against any such third party as is referred to in paragraph 9.1(b). Subject thereto, AWL shall take such steps as Phoenix shall reasonably require in order to pursue the rights it may have under any such policy of indemnity insurance or against any such third party. Phoenix shall be entitled, upon notice to AWL, to have conduct of all litigation or other proceedings in respect of any such claim. In that

connection, AWL shall give all such assistance as Phoenix may reasonably require in conducting any such proceedings.

10. **PENSION SCHEMES**

10.1 On the Transfer Date but with effect from the Effective Date, Phoenix shall unconditionally and irrevocably become the scheme administrator and scheme operator (in each case as such roles are defined in the relevant scheme deeds and to the extent that AWL carries out such role immediately prior to the Transfer Date) of the AWL Pension Schemes in place of AWL.

10.2 From the Transfer Date but with effect from the Effective Date:

- (a) Phoenix shall undertake the liabilities and responsibilities of the provider (within the meaning of the relevant scheme deeds) under the AWL Pension Schemes in place of AWL; and
- (b) AWL shall be released from all obligations applicable to it under the relevant scheme deeds, which shall have effect as if Phoenix had been the provider referred to in the scheme deeds for each of the AWL Pension Schemes.

PART D - FUND STRUCTURE

11. PURPOSE OF ALLOCATIONS

Any allocation of property or attribution of liabilities, and any re-allocation or re-attribution of the same, which is made under the terms of this Scheme for the purpose of the maintenance of the Non-Profit Fund or the Phoenix Shareholders' Fund is for the purpose of establishing policyholder entitlements from time to time and shall not be taken to limit the availability of all the property from time to time of Phoenix to meet the liabilities which it is obliged by law to meet.

12. ALLOCATION OF POLICIES

12.1 On the Transfer Date but with effect from the Effective Date, the Transferred Policies shall be allocated to the Non-Profit Fund.

12.2 On the Guernsey Transfer Date but with effect from the Guernsey Effective Date, the Guernsey Policies shall be allocated to the Non-Profit Fund.

13. ALLOCATION OF ASSETS

13.1 On the Transfer Date but with effect from the Effective Date, all Transferred Assets other than those referred to in paragraph 13.2 shall be allocated to the Non-Profit Fund.

13.2 On the Transfer Date but with effect from the Effective Date, all Transferred Assets allocated to the AWL Shareholders' Fund immediately prior to the Transfer Date, including the assets attributable to the interest of the AWL Shareholders' Fund in the Long Term Insurance Fund of AWL, shall be allocated to the Phoenix Shareholders' Fund.

13.3 On and with effect from the applicable Subsequent Transfer Date, each Residual Asset shall be allocated to the Fund to which it would have been allocated in accordance with the provisions of paragraphs 13.1 and 13.2 had it been a Transferred Asset.

14. ALLOCATION OF LIABILITIES

14.1 On the Transfer Date but with effect from the Effective Date, the following shall be allocated to the Non-Profit Fund:

- (a) all Transferred Liabilities other than those referred to in paragraph 14.2;
- (b) all liabilities attributable to the Excluded Policies Reassurance Arrangement;
- (c) the liability to indemnify AWL pursuant to paragraph 8.2; and
- (d) the liability to discharge liabilities on AWL's behalf, or failing that to indemnify AWL, pursuant to paragraphs 9.1 and 9.2.

14.2 On the Transfer Date but with effect from the Effective Date, the Transferred Liabilities allocated to the AWL Shareholders' Fund immediately prior to the Transfer Date shall be allocated to the Phoenix Shareholders' Fund.

14.3 On and with effect from the applicable Subsequent Transfer Date, each Residual Liability shall be allocated to the Fund to which it would have been allocated in accordance with the provisions of paragraphs 14.1 and 14.2 had it been a Transferred Liability.

14.4 If any doubt or difference shall arise as to the allocation or attribution of any Transferred Asset, Transferred Liability, Residual Asset or Residual Liability in accordance with this

Scheme, the same shall be determined by the Phoenix Board, having regard to advice from the Phoenix Chief Actuary.

15. LINKED FUNDS

- 15.1 On the Transfer Date but with effect from the Effective Date, the property and any associated liabilities comprised in each Linked Fund of AWL shall be allocated to and become comprised in a corresponding Linked Fund of Phoenix within the Non-Profit Fund, comprising immediately following the Transfer Date the same number and value of units as were comprised within the relevant Linked Fund of AWL immediately prior to the Transfer Date.
- 15.2 On the Transfer Date but with effect from the Effective Date:
- (a) subject always to the provisions of this paragraph 15, in relation to any benefits under Transferred Policies which are linked to a Linked Fund of Phoenix pursuant to paragraph 15.1, Phoenix shall become entitled to the same rights and powers and be subject to the same duties and liabilities as applied to AWL in relation to the corresponding Linked Fund of AWL immediately prior to the Transfer Date; and
 - (b) benefits under any Transferred Policy which, immediately prior to the Transfer Date, were linked to any one or more Linked Fund(s) of AWL shall become linked to the corresponding Linked Fund(s) of Phoenix and Phoenix shall allocate to each such Transferred Policy the same number and classes of units in the corresponding Linked Fund(s) of Phoenix as the number and classes of units in the relevant Linked Fund(s) of AWL which were allocated to the Transferred Policy immediately prior to the Transfer Date.
- 15.3 If any property comprised in a Linked Fund of AWL falls within the provisions of paragraph 8.1 all interests and rights in relation to such property shall be allocated to the relevant Linked Fund of Phoenix to which such property would, had it been a Transferred Asset, have been allocated.
- 15.4 On and with effect from the relevant Subsequent Transfer Date, each Residual Asset which is comprised in a Linked Fund of AWL shall be allocated to the Linked Fund of Phoenix to which it would have been allocated pursuant to this paragraph 15 had it been a Transferred Asset.

PART E - OPERATION OF THE PHOENIX LONG-TERM INSURANCE FUND

16. OPERATION OF THE EXISTING PHOENIX SCHEMES

The Existing Phoenix Schemes shall, except as otherwise set out in this Scheme, continue in full force and effect.

17. MAINTENANCE OF PHOENIX SUB-FUNDS

Nothing in this Scheme shall at any time prevent Phoenix from:

- (a) establishing and maintaining new sub-funds within the Phoenix Long-Term Insurance Fund and writing in or reinsuring to any such sub-funds any new Long-Term Insurance Business or any business of other sub-funds of Phoenix;
- (b) writing in or reinsuring to any Fund any business;
- (c) writing in or reinsuring to any Fund Policies issued pursuant to rights or options under the terms of the Transferred Policies; or
- (d) establishing and maintaining new Linked Funds.

18. MERGER AND CLOSURE OF FORMER AWL LINKED FUNDS

18.1 The provisions of this paragraph 18 shall apply to the management of each Former AWL Linked Fund but not, for the avoidance of doubt, to any other Linked Fund established or maintained by Phoenix either before or after the Transfer Date.

18.2 Subject to all applicable legislation and to the extent not prohibited by the terms of the relevant policies, Phoenix, having regard to the advice of the Phoenix Chief Actuary and the interests of the relevant policyholders, shall be at liberty at any time and from time to time to:

- (a) close to new or further investment or amalgamate any Former AWL Linked Funds, or any part or parts thereof, with any other Linked Fund;
- (b) divide any Former AWL Linked Funds into one or more Linked Funds;
- (c) wind up any of the Former AWL Linked Funds in accordance with paragraph 18.3;
- (d) effect any combination of the actions referred to in paragraphs 18.2(a), 18.2(b) and 18.2(c) above; or
- (e) modify or enlarge the investment objectives of any of the Former AWL Linked Funds to permit investment in assets which are reasonably similar to, or provide reasonably similar investment exposure to, those already held or permitted to be held in that Linked Fund,

on such terms as the Phoenix Board shall consider equitable as between the policyholders affected thereby (having regard to the advice of the Phoenix Chief Actuary) but, in each case, provided that Phoenix shall have first consulted with Aviva LPUK to the extent that such action affects or has the potential to affect the business of, or any fund of, Aviva LPUK or any of its policyholders. Where Phoenix consults with Aviva LPUK in accordance with this clause 18, the Phoenix Board shall have due regard to the position of Aviva LPUK, its business, funds and its policyholders.

18.3 If Phoenix intends pursuant to paragraph 18.2(c) to wind up any Former AWL Linked Funds it shall cancel the units in such Linked Fund allocated to Policies upon issuing to

the relevant policyholders, without charge, in substitution for the cancelled units, new units of an equal value (as determined by the Phoenix Board, having regard to the advice of the Phoenix Chief Actuary) in another Linked Fund. That substitute Linked Fund shall be a fund from among those available from Phoenix at the time to holders of Policies of the same class as the Policies held by the relevant policyholders and which, in the opinion of the Phoenix Board, having regard to the advice of the Phoenix Chief Actuary, provides reasonably equivalent investment exposure to the Linked Fund so wound up.

18.4 Where any policyholder may be affected by the application of clause 18.2 and elects to Switch from the Linked Fund to which his Policy is, by its terms, linked into one or more other Linked Fund(s) to which his Policy is, by its terms, linked:

- (a) without prejudice to any entitlement for a policyholder to effect such a Switch under the terms of the Policy, one such Switch shall be permitted by Phoenix, even where such Switch was not permitted under the terms of the Policy, provided it is effected within 12 months after the relevant change has occurred; and
- (b) any switching charge that would otherwise apply as a consequence of such Switch during the period from the date when he receives notification that his policy may be affected until the date 12 months after the relevant change has occurred shall be waived in respect of the first (but not any subsequent) occasion when such charge would have applied. If such a Policy is linked to two or more Linked Funds, this paragraph 18.4 shall apply separately in respect of each such Linked Fund that is the subject of the application of paragraph 18.2.

18.5 In the event that the Phoenix Board considers, having regard to the advice of the Phoenix Chief Actuary, that any group of policyholders may be disadvantaged financially by any action taken pursuant to the provisions of this paragraph 18, the Phoenix Board shall ensure that appropriate adjustments are made to the property of, or the charges levied on, the applicable Linked Fund in order to provide appropriate compensation to such policyholders.

19. **CONTINUITY WITH PREVIOUS SCHEMES**

The Existing AWL Schemes shall continue in full force and effect on the basis that Phoenix is a party to the Existing AWL Schemes instead of AWL and any reference in the Existing AWL Schemes to AWL shall be read as a reference to Phoenix and all rights and obligations of AWL under or relating to the Existing AWL Schemes shall be rights and obligation of Phoenix.

20. **DELAY IN ALLOCATIONS TO THE FUNDS**

If there is, for any reason, any delay (for which provision is not expressly made in this Scheme) in the allocation of any receipt, payment or other item to a Fund in accordance with this Scheme, the Phoenix Board, having obtained appropriate actuarial advice and subject to FSMA, shall make such adjustment, including to allow for investment return earned during the period from (and excluding) the Transfer Date to (and including) the date on which such adjustment is made, between such Funds as it considers appropriate in accordance with the principles underlying this Scheme to take account of such delay.

PART F - MISCELLANEOUS PROVISIONS

21. TRANSFER DATE AND EFFECTIVE DATE

- 21.1 This Scheme shall become operative at 23.59 GMT on 8 December 2017 or such other time and date as AWL and Phoenix may agree (being a date and time falling after the making of the Order sanctioning the Scheme).
- 21.2 Unless this Scheme shall have become operative in its entirety on or before 31 March 2018 or such later date, if any, as AWL and Phoenix may approve and the Court may allow, this Scheme shall lapse.
- 21.3 In so far as this Scheme creates rights and obligations that exist only between the parties to it, it shall so far as possible be treated as having become effective as between the parties on the Effective Date, including, without prejudice to the generality of the foregoing, for accounting purposes, and references in this Scheme to the Effective Date and the phrase "with effect from the Effective Date" shall be construed accordingly.
- 21.4 No transfer or allocation of any asset or liability nor any other matter provided for by this Scheme shall be treated, if and to the extent that such transfer or allocation or matter would affect the legal rights or obligations of any third party, as being effective with regard to that third party before the Transfer Date.
- 21.5 Any Transferred Asset which ceases to be an asset of AWL between the Effective Date and the Transfer Date shall be deemed to have been disposed of by Phoenix at the date on which it was disposed of by AWL and any Transferred Asset which is acquired by AWL between the Effective Date and the Transfer Date shall be deemed to have been acquired by Phoenix at the date on which it was acquired by AWL.
- 21.6 Any Transferred Liability which ceases to be a liability of AWL between the Effective Date and the Transfer Date shall be deemed to have been discharged by Phoenix at the date on which it was discharged by AWL and any Transferred Liability which becomes a liability of AWL between the Effective Date and the Transfer Date shall be deemed to have become a liability of Phoenix at the date on which it became a liability of AWL.

22. COSTS AND EXPENSES

The costs and expenses incurred by Phoenix and AWL in relation to the preparation and carrying into effect of this Scheme, whether before, on or after the Transfer Date, shall be borne by the Phoenix Shareholders' Fund.

23. MODIFICATION OR ADDITIONS

- 23.1 AWL and Phoenix may consent to any modification of or addition to this Scheme or to any further condition or provision affecting the same which, prior to its sanction of this Scheme, the Court may approve or impose (for the avoidance of doubt, without prejudice to the position which the Regulators may take in relation to any such modification or addition).
- 23.2 Subject to paragraph 23.4, at any time after the sanction of this Scheme, Phoenix (or, if AWL is directly affected by the proposed amendment, Phoenix and AWL jointly) shall be at liberty to apply to the Court for consent to amend its terms, provided that in any such case:
- (a) the Regulators shall be given written notice of the proposed amendment at least 28 days prior to the making of the application to the Court and shall have the right to be heard at any hearing of the Court at which such application is considered

(including to make representations as to the appropriate publicity in relation to the proposed amendment);

- (b) Phoenix has complied with any directions given by the Court as to publicity in relation to the proposed amendment; and
- (c) such application shall be accompanied by a certificate from an independent actuary to the effect that in his opinion the proposed amendment will not materially adversely affect the security or reasonable expectations of the policyholders of Phoenix including the holders of the Transferred Policies.

23.3 If such consent is granted, Phoenix and where applicable AWL may amend the terms of this Scheme in accordance with such consent.

23.4 The consent of the Court shall not be required in relation to minor and/or technical amendments to the terms of this Scheme (including amendments to correct manifest errors) that may be proposed by Phoenix and, where applicable, agreed by AWL in writing, provided that the Regulators have been notified of the same at least 28 days in advance of the amendment being made and have not objected (unless the Regulators have confirmed non-objection prior to that date).

24. **EVIDENCE OF TRANSFER**

24.1 The production of a copy of the Order and of this Scheme, with any modifications made under paragraph 23, shall for all purposes be conclusive evidence of the transfer to, and vesting in, Phoenix of:

- (a) from the Transfer Date, the Transferred Business, the Transferred Assets and the Transferred Liabilities; and
- (b) from each Subsequent Transfer Date, the Residual Assets and the Residual Liabilities.

24.2 In order to enable Phoenix to complete any title to any property or interest in land transferred to and vested in it by virtue of this Scheme by notice of title or otherwise or in order to deduce title, without prejudice to paragraphs 3 and 24.1, this Scheme and/or the Order, with any modifications made under paragraph 23, together with any document ancillary thereto (including a certificate of any officer or employee of Phoenix identifying the relevant property or interest in land) shall be deemed to be, and may be used as, a general disposition, conveyance or (as the case may be) assignation of such property or interest in favour of Phoenix.

25. **THIRD PARTY RIGHTS**

It is not intended that any person who is not a party to this Scheme may enforce any of its terms, whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

26. **GOVERNING LAW**

This Scheme shall be governed by and construed in accordance with English law.

Dated: [●]

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT**

IN THE MATTER OF AXA WEALTH LIMITED

- and -

IN THE MATTER OF PHOENIX LIFE LIMITED

- and -

**IN THE MATTER OF THE FINANCIAL SERVICES AND
MARKETS ACT 2000**

SCHEME

(pursuant to Part VII of the Financial
Services and Markets Act 2000)

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