

**IN THE HIGH COURT OF JUSTICE**

**CR - 2018 - 009602**

**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**

**COMPANIES COURT (ChD)**

**IN THE MATTER OF**

**TRAVELERS INSURANCE COMPANY LIMITED**

**AND**

**TRAVELERS INSURANCE DAC**

**AND**

**IN THE MATTER OF**

**PART VII OF THE FINANCIAL SERVICES AND MARKETS ACT 2000**

**INSURANCE BUSINESS TRANSFER SCHEME**

**CLYDE & CO**

Ref: IZE/RM/FQC/10096756

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## 1. INTERPRETATION

1.1 In this insurance business transfer scheme, unless the context otherwise requires, the following words or phrases have the following meanings:

**Act** means the Financial Services and Markets Act 2000 together with the rules and regulations implemented pursuant thereto;

**Affiliate** means, in relation to any party, any direct or indirect subsidiary undertaking or parent undertaking of that party and any direct or indirect subsidiary undertaking of any such parent undertaking, in each case from time to time;

**Collateral** means any fund, deposit or reserve of funds or assets established by the Transferor (or otherwise provided by or to the Transferor) to secure payment of liabilities arising under a Transferring Policy whether pursuant to a contractual arrangement or otherwise (including any collateral in respect of policy number IC GEN 3673482);

**Effective Date** means the date and time on which this Scheme takes effect in accordance with Clause 11;

**EU Branches** means the Dutch, French, German and Irish branches of the Transferor;

**Excluded Assets** means, other than the Transferring Assets, any and all assets of the Transferor and without limiting the generality of the foregoing, includes:

- a) the Retained Business;
- b) the Excluded Reinsurance Policies;
- c) the Group Company Guarantee;
- d) the Residual Rights;
- e) Retained Third Party Contracts;

**Excluded Liabilities** means the liability of the Transferor, other than the Transferring Liabilities, and without prejudice to the generality of the foregoing, such liabilities shall include, without limitation, any liabilities in respect of any Excluded Assets;

**Excluded Reinsurance Policies** means (i) the outwards reinsurance Policies issued to the Transferor to the extent they provide protection in respect of any Policy forming part of the

Retained Business including the International Reinsurance Policies and (ii) any reinsurance policies issued to the Transferor by one or more of the Transferor's Affiliates;

**FCA Handbook** means the handbook of rules and guidance issued by the UK Financial Conduct Authority from time to time;

**GDPR** means the General Data Protection Regulation (EU 2016/679) and any legislation which amends, re-enacts or replaces it in England and Wales or Ireland;

**Group Company Guarantee** means the agreement dated 22 August 1995 between St. Paul Fire and Marine Insurance Company (the Guarantor) and the Transferor under which the Guarantor agreed to guarantee the faithful and complete performance of the Transferor's obligations arising out of all insurance and reinsurance contracts entered into by the Transferor;

**High Court** means the High Court of Justice of England and Wales;

**HMRC** means Her Majesty's Revenue and Customs and its predecessors, the Inland Revenue or Her Majesty's Customs and Excise (as appropriate);

**International Reinsurance Policies** means every Policy of outwards reinsurance issued to the Transferor which include cover in respect of European as well as UK and / or other international risks;

**Irish Surety Bond** means the surety bond written on a "freedom of services" basis in Ireland and which is assumed by the Transferor pursuant to a Part VII transfer of insurance business from Travelers Casualty and Surety Company of Europe Limited to the Transferor;

**Order** means an order of the High Court pursuant to section 111 of the Act sanctioning the Scheme and any order (including any subsequent order) in relation to this Scheme made by the High Court making provision under section 112 of the Act;

**Part 4A Permission** means permission given by the UK Insurance Regulator under Part 4A of the Act to carry on regulated activities;

**Policy** and **Policyholder** has the meaning set out in section 424(2) of the Act and articles 2 and 3 of the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 (S.I. 2001/2361) save that **Policy** shall include policies and slips, any indemnity or other similar obligation covering or having the effect of covering insurance liability and any endorsements or amendments thereto;

**Pure EEA Business** means the general insurance business of the EU Branches including every Policy or part of a Policy of general insurance ever written, issued, or assumed by or novated to the EU Branches including all activities carried on in connection with or for the purpose of such business;

**QSRI** means the quota share reinsurance agreement to be entered into between the Transferee (as reinsured) and the Transferor (as retrocessionaire) effective as of the Effective Date;

**RAO** means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

**Reinsurance Policy** means outwards reinsurance policies issued to the Transferor insofar as relevant to, and to extent that they provide protection in respect of, a Policy forming part of the Pure EEA Business (but excluding for the avoidance of doubt the Excluded Reinsurance Policies), together with any security arrangements or letters of credit which have been arranged by the relevant reinsurer (or otherwise) for the benefit of the Transferor (so far as such arrangements relate to the Transferring Business) and to which the Transferor is a party;

**Related Policy** means any Policy or part of a Policy forming part of the Pure EEA Business to the extent that it gives rise to rights under a Residual Reinsurance;

**Related Reinsurance** means any Reinsurance Policy or part of a Policy to the extent that it provides cover in respect of a Residual Policy;

**Remaining Business** means a Residual Policy, Residual Reinsurance, a Related Policy or Related Reinsurance;

**Residual Policy** means any Policy or part of a Policy forming part of the Pure EEA Business that is not or is not capable of being transferred on the Effective Date by this Scheme or by any vesting order under section 112 of the Act and is not otherwise transferred;

**Residual Reinsurance** means any Reinsurance Policy or part of a Reinsurance Policy which is not or is not capable of being transferred on the Effective Date by this Scheme or by any vesting order under section 112 of the Act and is not otherwise transferred;

**Residual Rights** means the right to monies pursuant to the reversionary interest described in Clause 5 of the Settlement;

**Retained Business** means (i) all general insurance and inward reinsurance business of the Transferor excluding the Pure EEA Business and including every other Policy or part of a

Policy of general insurance or inward reinsurance ever written, issued, or assumed by or novated to the Transferor (including for the avoidance of doubt the QSRI) and all activities carried on in connection with or for the purpose of such business;

**Retained Third Party Contracts** means all contracts, arrangements, licenses and other rights and commitments between the Transferor and third parties (including intra-group companies) other than the Transferring Policies, the Transferring Reinsurances and the Transferring Third Party Contracts;

**Scheme** means the insurance business transfer scheme set out in this document with or subject to any modification, addition or condition approved or imposed by the High Court;

**Settlement** means the settlement agreement dated 13 July 2011 between certain insured persons, certain insurance carriers, Qwest Communications International Inc. and its subsidiaries and Koninklijke KPN N.V. and its subsidiaries;

**Subsequent Transfer Date** means:

- a) in the case of a Residual Policy or a Residual Reinsurance, the date on which the Transferor's rights and liabilities under such Residual Policy or Residual Reinsurance are transferred to the Transferee whether by means of novation or as a result of any necessary consent or waiver being obtained or the making of a court order dispensing with such consent or waiver or otherwise; and
- b) in the case of a Related Policy or Related Reinsurance to the extent that rights and liabilities under such policy or reinsurance are retained by the Transferor pursuant to Clause 4.4, the Subsequent Transfer Date for the relevant Residual Reinsurance or the relevant Residual Policy or, if earlier, and in the case of a Related Policy only, the date on which the relevant Residual Reinsurance is commuted;

**Tax or Taxation** means any form of taxation, levy, duty, charge, contribution, withholding or impost of whatever nature (including any related fine, penalty, surcharge or interest) imposed, collected or assessed by, or payable to, a Tax Authority and includes, for the avoidance of doubt, income tax and amounts equivalent to or in respect of income tax required to be deducted or withheld from or accounted for in respect of any payment;

**Tax Authority** means HMRC and any government, state or municipality or any local, state, federal or other authority, body or official anywhere in the world exercising a fiscal, revenue, customs or excise function;

**Transferee** means Travelers Insurance DAC, a company incorporated in the Republic of Ireland with registered number 620416 whose registered office is at Third Floor Europa House, Harcourt Centre, Harcourt Street, Dublin 2, Ireland;

**Transferor** means Travelers Insurance Company Limited, a company incorporated in England and Wales with registered number 01034343 and whose registered office is at 23-27 Alie Street, London, United Kingdom, E1 8DS;

**Transferring Assets** means all of the following whatsoever and wheresoever situated at the Effective Date:

- a) the rights, benefits and powers of the Transferor arising under or by virtue of or in connection with the Transferring Policies;
  - b) the rights, benefits and powers of the Transferor arising under or by virtue of or in connection with the Transferring Reinsurances;
  - c) the rights, benefits and powers of the Transferor arising under or by virtue of or in connection with the Transferring Third Party Contracts;
  - d) the rights, benefits and powers of the Transferor arising under or by virtue of or in connection with the Settlement, excluding the Residual Rights;
  - e) the Transferring Records; and
  - f) all right, title and interest of the Transferor in connection with any Collateral
- but shall not include an Excluded Asset;

**Transferring Business** means the Transferring Policies, the Transferring Assets and the Transferring Liabilities including, for the avoidance of doubt, mis-selling liabilities of any Transferring Policies;

**Transferring Liabilities** means all liabilities whatsoever (whether present or future, certain or contingent) of the Transferor to the extent they relate to, are in connection with, or are under Transferring Policies, the Transferring Third Party Contracts, the Settlement and/or the Transferring Reinsurances, save to the extent an Excluded Liability;

**Transferring Policy** means any Policy or part of a Policy (in either case being a Policy that is not a Residual Policy) forming part of the Pure EEA Business under which any liability or contingent liability remains unsatisfied or outstanding at the Effective Date including:

- (a) all proposals for insurance received by the Transferor before the Effective Date which have not become Policies in force by the Effective Date but which subsequently become Policies;
- (b) any Policy written by the Transferor that has lapsed on or before the Effective Date and which is reinstated by the Transferee after the Effective Date;

In addition, the definition of "Transferring Policy" shall also include the Irish Surety Bond.

**Transferring Records** means all documents, files, data and other records, whether in physical or electronic form that relate exclusively to the Transferring Policies which are in the possession of, or under the control of the Transferor to the extent not already in possession of the Transferee, Advent Insurance Management Limited, or an Affiliate of the Transferee;

**Transferring Reinsurance** means any Reinsurance Policy or part of a Reinsurance Policy, which is not a Residual Reinsurance, together with any security arrangements or letters of credit which have been arranged by the relevant reinsurer (or otherwise) for the benefit of the Transferor (so far as such arrangements relate to the Transferring Business) and to which the Transferor is a party;

**Transferring Third Party Contracts** means the following contracts insofar as, and to the extent that, they relate to the Transferring Policies:

- (a) Binding Authority Agreement dated 1 January 2018 between the Transferor and MacDonagh Boland Crotty MacRedmond (trading as Aon);
- (b) Clams Services Agreement dated 1 January 2017 between the Transferor and Van Ameyde UK Limited; and
- (c) Services Agreement dated 1 June 2016 between the Transferor and Advent and Advent Insurance Management Limited; and

**UK Insurance Regulator** means the UK Prudential Regulation Authority (**PRA**) and/or the UK Financial Conduct Authority (**FCA**), as applicable, (or any successor authority or authorities with responsibility for supervising the prudential and/or conduct of business requirements which apply to the carrying on of general insurance business in the UK).

- 1.2 In this Scheme (including for the avoidance of doubt Clause 1.1) unless the context otherwise requires or expressly provides:



- 1.2.1 references to **Clauses** and **Schedules** are to Clauses and Schedules to this Scheme;
- 1.2.2 **assets** includes property, rights and powers of any description;
- 1.2.3 **liabilities** includes duties and obligations of every description (whether present or future, actual or contingent or otherwise);
- 1.2.4 **novation** includes transfer or assignment;
- 1.2.5 **property** includes money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present, future or vested or contingent, arising out of, or incidental to, property;
- 1.2.6 **rights** includes benefits, powers and claims of every description (whether present, future, actual or contingent) including without limitation rights to the repayment of Taxation, duties or other imposts;
- 1.2.7 references to **general insurance** shall be construed by reference to Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- 1.2.8 references to **indemnify** or **indemnifying** any person against any loss incurred in respect of any act, omission, event or matter shall include indemnifying and keeping that person fully and effectively indemnified and held harmless on a continuing basis and on demand from and against such loss;
- 1.2.9 any reference to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal term;
- 1.2.10 the singular includes the plural and vice versa and any reference to one gender includes the other;
- 1.2.11 headings are for convenience only and shall not affect the interpretation of this Scheme;
- 1.2.12 save as expressly provided otherwise, any reference in this Scheme to an enactment, a statutory provision or any subordinate legislation shall be deemed to

include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time after the date of this Scheme and to any instrument or order made from time to time after the date of this Scheme under such enactment, statutory provision or subordinate legislation;

- 1.2.13 any reference to a person shall include a reference to any individual, company, firm, partnership, joint venture, association, organisation, trust or agency, whether or not having a separate legal personality;
- 1.2.14 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;
- 1.2.15 any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- 1.2.16 the expression variation or varied shall include any variation, supplement, deletion, replacement or termination, however effected;
- 1.2.17 references to parent undertaking and subsidiary undertaking shall have the meaning set out in the Companies Act 2006; and
- 1.2.18 any reference to **including** shall mean **including without limitation**.

## 2. INTRODUCTION

- 2.1 The Transferor is an insurance company authorised in the UK with permission under Part 4A of the Act to effect and carry out contracts of general insurance falling within paragraphs 1 to 17 inclusive of Part 1 of Schedule 1 of the RAO in the UK.
- 2.2 The Transferee is a wholly-owned subsidiary of the Transferor, which was incorporated in the Republic of Ireland on 6 February 2018 and has applied to the Central Bank of Ireland as a non-life insurance carrier under the European Union (Insurance and Reinsurance) Regulations 2015 for the following classes of business: 1 - Accident; 5 – Aircraft; 6 - Ships; 7 - Goods in Transit; 8 - Fire & Natural Forces; 9 - Damage to Property; 10 - Motor Vehicle Liability; 11 - Aircraft Liability; 12 - Liability of Ships; 13 - General Liability; 15 – Suretyship; and 16 - Miscellaneous Financial. The Transferee also intends to seek authorisation as a Freedom of Services insurer in each of the EEA member states (except Ireland) and to seek authorisation for the establishment of a Freedom of Establishment branch in the United Kingdom.

### 3. TRANSFER OF THE TRANSFERRING BUSINESS

- 3.1 Subject to Clause 3.8, on and with effect from the Effective Date the Transferring Business, and all the estate and interest of the Transferor in the Transferring Business, shall by the Order and without any further act or instrument be transferred to and vest in the Transferee in accordance with and subject to the terms of this Scheme.
- 3.2 On and with effect from the Effective Date, in any document evidencing or constituting a Transferring Policy, references to the Transferor and/or to rights, powers, duties and/or obligations imposed upon the Transferor, its board of directors or other officers, employees or agents and/or to liabilities of the Policyholders to the Transferor shall, to the extent necessary to give full effect to this Scheme, be read, construed and treated as references to the Transferee and/or to rights, powers, duties and/or obligations imposed upon the Transferee, its board of directors or other officers, employees or agents of the Transferee and/or to liabilities of the Policyholders to the Transferee (and shall take effect as if the Transferee were the original party to the Transferring Policy in place of the Transferor), subject to and in accordance with the terms of this Scheme. Notwithstanding the generality of the foregoing, if any person may have a new, additional or replacement policy issued to them, pursuant to any renewal provisions within a Transferring Policy (or howsoever arising) then, on and with effect from the Effective Date, any such rights and powers shall be exercised by such new, additional or replacement policy being issued by the Transferee.
- 3.3 On and with effect from the Effective Date, the Transferring Reinsurances, insofar as relevant to, and to the extent that they provide protection in respect of the Transferring Policies, shall continue in force with the substitution of the Transferee in place of the Transferor as the reinsured party and on the terms which applied before the Effective Date and on the basis that the Transferee is reinsured thereby, or the beneficiary thereof, for all purposes as if all references therein (however worded and whether express or implied) to the Transferor were references to the Transferee and shall take effect as if the Transferee were the original party to the Transferring Reinsurances in place of the Transferor.
- 3.4 On and with effect from the Effective Date, insofar as relevant to, and to the extent that they relate to the Transferring Policies, the Transferring Third Party Contracts shall continue in force with the substitution of the Transferee in place of the Transferor on the terms which applied before the Effective Date and all references therein (however worded and whether express or implied) to the Transferor were references to the Transferee and shall take effect as if the Transferee were the original party to the contract in place of the Transferor in respect of the Transferring Third Party Contracts.

- 3.5 On and with effect from the Effective Date, the Transferor shall pay to the Transferee all sums, and account to the Transferee for all benefits, which may be received by the Transferor in respect of the Transferring Business.
- 3.6 The sums and benefits referred to in Clause 3.5 shall include all premiums and reinsurance recoveries attributable or referable to the Transferring Business.
- 3.7 As soon as reasonably practicable after the Effective Date, so far as necessary taking account of existing agreements the Transferor shall, to the extent in its possession or control, deliver or cause to be delivered to the Transferee the Transferring Records which are capable of being transferred by delivery.
- 3.8 No Excluded Assets or Excluded Liabilities shall be transferred to or vested in the Transferee under or by virtue of the terms of this Scheme.

#### **4. TRANSFER OF RESIDUAL POLICIES AND RESIDUAL REINSURANCES**

- 4.1 The Transferor's rights and liabilities under Residual Policies and Residual Reinsurances shall transfer to, vest in and become rights and liabilities of the Transferee with effect from and including the applicable Subsequent Transfer Date. With effect from and including that date, the provisions of this Scheme shall apply to the relevant Residual Policies and Residual Reinsurances as if references to Transferring Policies and Transferring Reinsurances were references to such Residual Policies and Residual Reinsurances respectively and as if references to the Effective Date were to the relevant Subsequent Transfer Date.
- 4.2 The Transferor shall retain the right to be indemnified under any Related Reinsurance in respect of any liability arising out of a Residual Policy until the Subsequent Transfer Date in relation to that Related Reinsurance. With effect from and including that date, the Transferee shall have the right to be indemnified in respect of any such liability.
- 4.3 Insofar as it is necessary to ensure that the indemnity the under a Residual Reinsurance will still be available in respect of any liability arising under a Related Policy, the Transferor shall remain liable under such Related Policy until the Subsequent Transfer Date for the Residual Reinsurance. With effect from and including such Subsequent Transfer Date the Transferee shall assume liability under such Related Policy as if it were a Transferring Policy and this Scheme shall apply to such Related Policy as if it were a Transferring Policy and as if references to the Effective Date were to such Subsequent Transfer Date.
- 4.4 The Transferor shall on, and with effect from and including, the Effective Date hold its rights under each Residual Policy and each Residual Reinsurance and each Related Policy and Related Reinsurance on trust for the Transferee absolutely until:

4.4.1 the applicable Subsequent Transfer Date; or

4.4.2 such other date as the Transferor and the Transferee shall otherwise agree

and until then the Transferee shall indemnify the Transferor in accordance with Clause 5.

4.5 Subject to Clause 5.3, on and with effect from the Effective Date, the Transferor shall pay to the Transferee all sums, and account to the Transferee for all benefits, which may be received by the Transferor in respect of the Remaining Business.

4.6 The sums and benefits referred to in Clause 4.5 shall include all premiums and reinsurance recoveries attributable or referable to the Remaining Business.

4.7 In the event that a Residual Reinsurance or a Related Reinsurance is commuted, the Transferor shall account to the Transferee for the proceeds of such commutation.

4.8 Until the first to occur of the events referred to at 4.4.1 and 4.4.2, the Transferee shall continue to administer the Remaining Business in accordance with the current arrangements agreed with the Transferor.

## 5. **INDEMNITY**

5.1 From and including the Effective Date, the Transferee shall indemnify and keep indemnified the Transferor against any loss or expense incurred by, or demand made against, the Transferor that is attributable to the Transferring Business, whether arising before or after the Effective Date. From and including the Effective Date, the Transferor shall indemnify and keep indemnified the Transferee against any loss or expense incurred or demand made against the Transferee that is attributable to an Excluded Liability.

5.2 Subject to Clause 5.3, from and including the Effective Date the Transferee shall observe and perform the Transferor's obligations under the Remaining Business and shall indemnify and keep indemnified the Transferor against and in respect of any liability, loss or expense incurred by, or demand made against, the Transferor that is attributable to the same, in the case of Residual Policies and Related Policies, to the extent only that they are not recovered under any Related Reinsurance.

5.3 The amount of any payment by the Transferee to the Transferor in respect of a liability under a Residual Policy or Related Policy pursuant to the indemnity contained in Clause 5.2 shall be the amount of the liability less any sum already received by the Transferor under a Residual Reinsurance or Related Reinsurance at the time of payment by the Transferee (and for the avoidance of doubt the provisions of Clause 4.5 shall from that time no longer apply to any

sum so deducted). The Transferor shall reimburse the Transferee in respect of any payment made by the Transferee in discharge of a liability under a Residual Policy or Related Policy pursuant to Clause 5.2 out of, and to the extent of, any recovery subsequently made in respect of such liability under a Residual Reinsurance or Related Reinsurance. Pending reimbursement to the Transferee, the Transferor shall hold such recovery on trust for the Transferee.

## **6. LEGAL PROCEEDINGS AND CONTINUITY**

- 6.1 Any judicial, quasi-judicial, administrative or arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim or complaint (whether pending, current or future – including any not yet in contemplation) by, against or in relation to the Transferor in respect of, or in connection with, the Transferring Business (other than any such proceedings, complaint or claim that relates to or consists of an Excluded Liability) shall be commenced and/or continued by, against or in relation to the Transferee from the Effective Date and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to such proceedings and the Transferor shall have no liability under those proceedings and, for the avoidance of doubt, the Transferee, in its absolute discretion, may discontinue any such proceedings brought by the Transferor.
- 6.2 From and including the Effective Date until the relevant Subsequent Transfer Date, the Transferee shall have the right to direct the conduct of any legal proceedings which at the Effective Date are pending or which are commenced after the Effective Date by or against the Transferor in relation to the Remaining Business (other than any such proceedings that relate to or consist of an Excluded Liability).
- 6.3 Any such proceedings after the Effective Date commenced in error against the Transferor shall be deemed to have been commenced and shall be continued against the Transferee without the need for further order, whether for substitution of parties or otherwise.
- 6.4 Any judgment, order or award obtained by or against the Transferor which relates to any part of the Transferring Business (other than in respect of an Excluded Liability) and which is not fully satisfied before the Effective Date shall, on and from that date, become enforceable by or against the Transferee.
- 6.5 Any judicial, quasi-judicial, administrative or arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim (whether pending, current or future) by, against or in relation to the Transferor in respect of, or in connection with, any Excluded Liability shall be commenced and / or continued by, against or

in relation to the Transferor and any such proceedings after the Effective Date commenced in error against the Transferee shall be deemed to have been commenced and shall be continued against the Transferor without the need for further order, whether for substitution of parties or otherwise.

- 6.6 In respect of the Transferring Business, the Transferee undertakes to comply with:
- 6.6.1 the relevant provisions of the Dispute Resolution: Complaints rules (**DISP**) of the FCA Handbook that would apply to the handling of any complaints brought to the UK Financial Ombudsman Service that fall under its jurisdiction;
  - 6.6.2 any valid judgment, settlement, order or award (or relevant part thereof) of the UK Financial Ombudsman Service, made under its jurisdiction as set out in DISP 2 of the FCA Handbook; and
  - 6.6.3 any other relevant provisions of the FCA Handbook where the application of local law does not result in a similar outcome being achieved for the holder of a Transferring Policy.
- 6.7 Notwithstanding Clause 10, any holder of a Transferring Policy may enforce the provisions of Clause 6.6 against the Transferee.
7. **PREMIUMS, MANDATES ETC.**
- 7.1 All premiums attributable or referable to the Transferring Policies shall from and including the Effective Date be payable to the Transferee.
  - 7.2 Any direct debit mandate, standing order or other instruction or authority in force on the Effective Date including any instruction given to a bank by its customer in the form of a direct debit or standing order and providing for payment by a bank or other intermediary of premiums or other sums payable to the Transferor under or in respect of any Transferring Policy or other contract that forms part of the Transferring Business, shall thereafter take effect as if it had provided for and authorised such payment to the Transferee.
  - 7.3 Any mandate or other instruction or authority in force on the Effective Date as to the manner of payment by the Transferor of any sum payable under any Transferring Policy or any other contract which forms part of the Transferring Business shall continue in force as an effective mandate, instruction or authority to or of the Transferee from and including the Effective Date.

## **8. PERSONAL DATA**

8.1 On and with effect from the Effective Date, the Transferee shall:

8.1.1 succeed to all rights, liabilities and obligations of the Transferor in respect of any personal data which relates to the Transferring Business and which is subject to the GDPR;

8.1.2 become the data controller of any personal data which relates to the Transferring Business and which is subject to the GDPR in place of the Transferor and shall be deemed to have been the controller of all such data at all material times when personal data was processed;

8.1.3 in respect of any personal data which relates to the Transferring Business be under the same duty by virtue of any law as the Transferor 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 the Transferor and which required a Transferor not to use the personal data for marketing purposes; and

8.1.4 in any consent given by a data subject in respect of such data as is mentioned in this Clause 8, any reference to the Transferor shall be deemed to include a reference to the Transferee.

## **9. FURTHER ASSURANCE**

The Transferor and the Transferee shall each take such steps and execute such documents as may reasonably be required to effect or perfect the transfer to the Transferee of the Transferring Business.

## **10. THIRD PARTIES**

Other than for the purpose of enforcing rights against the Transferee, no term of this Scheme shall be enforceable by any person other than the parties.

## **11. THE EFFECTIVE DATE**

11.1 Subject to the High Court having made an Order under Section 111 of the Act sanctioning this Scheme, this Scheme shall take effect at 23.59 (London time) on:



- 11.1.1 31 March 2019, unless the directors of the Transferor and the Transferee have resolved before that date that it shall not take effect on such date; and
  - 11.1.2 if the said directors do so resolve, such other date (not being later than 1 July 2019) as the said directors shall determine.
- 11.2 If this Scheme does not take effect on or before 1 July 2019, or such later date as the High Court may allow upon the application of the Transferor and the Transferee, it shall lapse.

## 12. **MODIFICATION**

- 12.1 The Transferor and the Transferee may, as required, consent for and on behalf of the parties hereto and all other persons concerned 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.
- 12.2 Subject to Clause 12.3, at any time after the sanction of this Scheme, the Transferee, with the Transferor's consent (not to be unreasonably withheld or delayed), shall be at liberty to apply to the Court for consent to amend the Scheme, provided that in any such case:
- 12.2.1 the PRA and the FCA shall be notified in advance of, and shall have the right to be heard at, any hearing of the Court at which such application is considered; the parties agree that the PRA and FCA shall be given sufficient written notice of the proposed amendment and at least 42 days (or such other reasonable period as agreed between the parties), commencing on the date that the FCA has confirmed receipt of the relevant notification, shall lapse before any hearing of the Court at which such application is considered shall take place; and
  - 12.2.2 such application shall be accompanied by a certificate or updated independent expert's report, as appropriate, and which has been prepared on the basis of the most recent available financial information, from an independent actuary to the effect that in his opinion the proposed amendment will not materially adversely affect policyholders (being all groups of potentially affected policyholders) when taking account of all possible impacts of the proposed amendment.

If the consent of the Court is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.

- 12.3 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

and/or changes required by law or regulation) that are agreed by the Transferor and the Transferee, provided that either:

12.3.1 each of the PRA and the FCA has been notified of the same and has indicated that it does not object thereto; or

12.3.2 a period of at least 42 days (or such other reasonable period as agreed between the parties), commencing on the date that the FCA has confirmed receipt of the relevant notification, has passed without either the PRA or the FCA indicating any objection thereto.

### 13. **GOVERNING LAW**

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

4 December 2018

**CR – 2018 - 009602**

**IN THE HIGH COURT OF JUSTICE**

**BUSINESS AND PROPERTY COURTS OF  
ENGLAND AND WALES**

**COMPANIES COURT (ChD)**

**IN THE MATTER OF**

**TRAVELERS INSURANCE COMPANY  
LIMITED**

**AND**

**TRAVELERS INSURANCE DAC**

**AND**

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

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**INSURANCE BUSINESS TRANSFER  
SCHEME**

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