

SCHEDULE 1

The New Provisions

THE TRUST DEED

1.

GOVERNING PROVISIONS

1.1 With effect from the Effective Date, the Trustees shall hold and manage the Fund under irrevocable trusts and shall administer the Scheme as provided in this Trust Deed and the Rules, and the main purpose of the Scheme is hereby confirmed as being the provision of retirement benefits for the Members, such benefits being relevant benefits as defined in Chapter I of Part XIV of the Taxes Act⁽¹⁾.

1.2 The benefits, rights and options of Members who were in Service on the Effective Date (other than any such Member whose current membership of the Scheme had ceased for any reason on or before the Effective Date) and persons who become Members after that date shall be in accordance with this Trust Deed and the Rules.

1.3 Subject to the allocation of individuals to the CAA Section and the NATS Section under Clause 3, the benefits, rights and options of Members who ceased to be in Service or whose current membership of the Scheme ceased for any other reason before the Effective Date shall be in accordance with the Previous Scheme Provisions at the date of such cessation or other appropriate date but any other provision of the Trust Deed and Rules determined by the Principal Employer with the consent of the Trustees shall apply to any Member or group of Members to the extent notified to such Members, and in respect of such Members the Previous Scheme Provisions shall be deemed to have been amended to such extent but subject always to the provisions of Clause 16 of the Previous Definitive Deed.

2.

INTERPRETATION

2.1 In this Trust Deed and the Rules, the expressions **this Deed** and **the Rules** mean respectively this amended trust deed and the rules of the CAA Section, the rules of the NATS Section or the rules of any other Section established pursuant to Clause 19 scheduled to it, together with any variation of or additions to or substitutions for the same duly made.

2.2 The provisions of any Appendices (and any Schedules to such Appendices) to this Deed including the provisions of the Rules shall be deemed to be incorporated in and to form part of this Deed, which shall be read and construed accordingly.

2.3 Notwithstanding the provisions of Clause 1 of the Previous Definitive Deed, in the event of any inconsistency between the provisions of the Trust Deed and the provisions of the Existing Trust Deeds the provisions of the Trust Deed shall prevail.

2.4 For the avoidance of doubt it is stated that the Scheme is subject to the law of England and Wales and that the interpretation of the Trust Deed and Rules is subject to the law of England and Wales.

2.5 In this Trust Deed and Rules:

- (a) unless the context requires otherwise the singular shall include the plural (and vice versa) and the masculine shall include the feminine (and vice versa);

(1) 1988 c. 1.

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- (b) reference to any Act of Parliament or to any part or section thereof shall be deemed to include any statutory regulations made under it and shall also include any statutory provisions in force in Northern Ireland corresponding to the provisions of the said Act and any statutory modification or re-enactment of any of the aforementioned for the time being in force;
- (c) reference to any particular Clause or Rule of or within a Section shall be a reference to a Clause or Rule of the Trust Deed and the Rules (of the Section) respectively unless otherwise stated, and the letter S prefixed to a Rule number shall indicate a reference to a Rule in Schedule 1 to the CAA Rules;
- (d) the Rules shall consist of the CAA Rules and the NATS Rules together with the rules adopted for any new Section established under Clause 19 and any Schedules thereto and any addition or alteration to the Rules duly made;
- (e) the application of the CAA Rules to S Category Members shall be as described in Rule S1 in Schedule 1 to the CAA Rules;
- (f) the definitions applying to this Trust Deed and the Rules are set out in Appendix 1 and such definitions apply separately to each of the CAA Rules, the NATS Rules and any rules adopted for any new Section established under Clause 19;
- (g) any amendment to the definitions may apply if so stated to the Rules in relation to one Section only; and
- (h) in the interpretation of any particular Clause or Rule the heading to that Clause or Rule shall be disregarded.

3.

THE CAA AND NATS SECTIONS

3.1 With effect from the Effective Date, the CAA Section and the NATS Section shall be established within the Scheme.

3.2 Those individuals who, on the day immediately before the Effective Date, were Current Members employed by NATS and individuals who may become entitled to the payment of pension or other benefits in respect of them, shall, in respect of all benefits for and in respect of them, continue as Members of the Scheme or individuals who may become entitled to the payment of pension or other benefits with effect from the Effective Date in the NATS Section and shall with effect from the Effective Date be subject to the Trust Deed and the NATS Rules. Periods of Pensionable Service in the Scheme prior to the Effective Date shall count as periods of Pensionable Service in the NATS Section.

3.3 All other Members together with all other individuals having an entitlement to the payment of pension or other benefits from the Scheme as at the day before the Effective Date shall in respect of all benefits for and in respect of them, continue as Members of the Scheme or individuals entitled to the payment of pension or other benefits (as appropriate) with effect from the Effective Date in the CAA Section, and shall with effect from the Effective Date be subject to the Trust Deed and the CAA Rules. Periods of Pensionable Service in the Scheme prior to the Effective Date shall count as periods of Pensionable Service in the CAA Section.

4.

THE FUND AND ALLOCATION OF SECTION ASSETS

4.1 The Trustees shall hold and manage the Fund under irrevocable trusts and shall administer the Scheme in such a way as to:

- (a) confirm the purpose of the Scheme as the provision of relevant benefits as defined in section 612(1) of the Taxes Act for and in respect of such employees and directors (or former employees and directors) of the Employers as shall become Members; and
- (b) obtain the approval or maintain the continued approval of the Scheme as an exempt approved scheme for the purposes of the Taxes Act.

4.2 The assets and liabilities of the Scheme as at the Effective Date shall be allocated to the CAA Section and the NATS Section in accordance with and using the actuarial method and assumptions set out in Appendix 6 and, after the Effective Date, the assets shall be treated as Section Assets of the Section to which they have been attributed and shall be dealt with as set out in the Trust Deed and Rules.

4.3 The Section Assets in respect of each Section shall be applied solely for the discharge of the Section Liabilities in respect of that Section, so that no Sponsoring Section Employer or other Employer in any other Section nor the Section Assets in respect of any other Section shall be liable for any obligation or be entitled to or receive any benefit arising out of or pursuant to any deficiency or surplus respectively in relation to the Section Liabilities in respect of that Section, either prior to or pursuant to the discontinuance of that Section. The assets of each Section shall be used to provide benefits to and in respect of Members and former employees and their respective Spouses, Qualifying Children and Dependants in each case as are attributed to that Section and any costs to be met by that Section and shall not be applied to or for the benefit of any other Section at any time.

This shall be without prejudice to any arrangements for the transfer of Section Assets made pursuant to or in consequence of the merging or sub-division of any Section or Sections or the withdrawal from any Section of any Employer or any transfer of Section Assets in respect of or in relation to any Member.

4.4 The Trustees shall maintain records at all times which are sufficient to show:

- (a) in the case of assets other than Unitised Section Assets, the assets of the Scheme attributable to each Section; and
- (b) in the case of Unitised Section Assets, the number of units in each Pooled Fund notionally allocated to each Section.

5.

APPOINTMENT, RESIGNATION AND REMOVAL OF TRUSTEES

5.1 Subject as hereinafter provided the power of appointing new trustees of the Scheme shall be vested in the Principal Employer and any such appointment shall be by resolution.

- (a) (a) The provisions of this Clause 5 shall be subject always to the provisions of the Pensions Act 1995 relating to the appointment of trustees of occupational pension schemes.
- (b) The Trustees shall secure that arrangements are made and implemented in accordance with the Pensions Act 1995(2) for the selection of Member-Nominated Trustees or shall secure that alternative arrangements proposed by the Principal Employer and approved under the Pensions Act 1995 are made and implemented in accordance with that Act.
- (c) The appointment as a trustee of the Scheme of any person nominated and selected in accordance with the relevant provision of the Pensions Act 1995 shall be confirmed by resolution.
- (d) A Member-Nominated Trustee may be removed from the office of trustee of the Scheme only in accordance with the provisions of the Pensions Act 1995.

(2) 1995 c. 26.

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- (e) For the purposes of this Clause 5.2, **Member-Nominated Trustee** means a member-nominated trustee as defined in the Pensions Act 1995 and includes member-nominated directors of a corporate body as defined in that Act.

5.3 Where proposed alternative arrangements have been implemented in accordance with Clause 5.2(b) above, then so long as such arrangements remain in force the following provisions of this Clause shall apply for so long as the following provisions reflect such alternative arrangements. This is subject to any agreement that the Principal Employer has entered into regarding the operation of the alternative arrangements (in so far as such agreements comply with applicable legislation).

5.4 The Principal Employer covenants with the Trustees to exercise the power contained in Clause 5.1 above so that at any time the Trustees are ten in number with not less than four of the Trustees being Members' Trustees, four being Employers' Trustees, one being an Employers' Pensioner Trustee and one being a Members' Pensioner Trustee.

5.5 The Principal Employer shall not unreasonably withhold the appointment as a Members' Trustee of a Current Member nominated by the organisation or organisations referred to in the definition of **Members' Trustees**, nor unreasonably withhold the appointment as a Members' Pensioner Trustee of a Member who is in receipt of a pension from the Scheme and who is nominated jointly by all the organisations referred to in the definition of **Members' Pensioner Trustee**. If the Principal Employer does withhold the appointment of a person so nominated it shall give its reasons in writing to the organisation or organisations which made the nomination.

5.6 Subject to the following provisions of this Clause 5, each Trustee shall be appointed for a period ending on the 31 March or the 30 September coincident with or if not coincident with the next following the expiration of a period of three years from the date of his appointment whichever period is the shorter.

In the event of a Members' Trustee ceasing to be a Current Member or ceasing to be employed in the class in which he was employed when he was appointed, he shall not for such reason alone be ineligible to continue in office until his period of appointment ends in accordance with the previous paragraph of this Clause 5.6.

5.7 The Trustees or any of them may resign their appointment as the Trustees or Trustee of the Scheme by giving notice in writing to that effect to the Secretary. The Trustees or Trustee so resigning shall cease to be Trustees and shall be discharged from the trust.

5.8 The Principal Employer may by resolution remove any Employers' Trustee or the Employers' Pensioner Trustee from the office of trustee of the Scheme and such Trustee shall cease to be a Trustee and shall be discharged from the trust.

The Principal Employer shall remove any Trustee who is a Members' Trustee or the Members' Pensioner Trustee from the office of trustee of the Scheme if respectively the organisation or organisations referred to in the definition of **Members' Trustees** or all the organisations referred to in the definition of **Members' Pensioner Trustee** jointly so request unless the Principal Employer considers the request to be unreasonable. Such removal shall be by resolution and the Trustee therein named shall thereupon cease to be a Trustee and shall be discharged from the trust.

5.9 If a Trustee fails over a period of six months to attend in person any of the duly convened meetings of the Trustees during such period the other Trustees or a majority of them may request the Principal Employer to remove such Trustee from office provided that no such request shall be made unless it has first been approved by a resolution passed at a meeting of the Trustees of which not less than seven days' notice in writing shall have been given to the Trustee in respect of whom the request is made. Upon receipt of such a request the Principal Employer shall by resolution declare such Trustee removed from office and upon such declaration such Trustee shall cease to be a Trustee and shall be discharged from the trust and shall be notified accordingly by the Principal Employer.

5.10 The Trustee may request the Principal Employer to remove any Trustee who is a Members' Trustee or the Members' Pensioner Trustee from office provided that such request is made by a majority of the Trustees and that such majority includes all of the Members' Trustees and the Members' Pensioner Trustee other than the Trustee in respect of whom the request is being made and provided further that no such request shall be made unless it has first been approved by resolution passed at a meeting of the Trustees of which not less than seven days' notice in writing shall have been given to the Trustee to whom the resolution relates.

Upon receipt of such a request the Principal Employer shall by resolution declare such Trustee removed from office and upon such declaration such Trustee shall cease to be a Trustee and shall be discharged from the trust and shall be notified accordingly by the Principal Employer.

5.11 A copy of a resolution of the Principal Employer certified by the Chairman of the Principal Employer or by the Secretary of the Principal Employer shall be conclusive evidence of any removal or appointment purporting to be made by it and there shall be no necessity for the Principal Employer or the Trustees to execute any Deed in connection therewith.

5.12 The above provisions of this Clause shall be without prejudice to the powers and duties of an insolvency practitioner or the official receiver in accordance with the relevant provisions of Part I of the Pensions Act 1995 or of any Trustee who is an independent trustee for the purposes of those provisions.

6.

PROCEEDINGS OF THE TRUSTEES

6.1 The Principal Employer shall from time to time nominate one of the Trustees to be their Chairman and to serve for a period ending on the termination of his appointment as a Trustee or such shorter period as the Principal Employer shall specify at the date of such nomination. This is subject to the terms of any agreement entered into by the Principal Employer regarding such nomination.

6.2 The Chairman or any two Trustees together may by written request to the Secretary call for a meeting of the Trustees and such meeting shall be convened by the Secretary within ten working days of receipt of the said request.

6.3 Notices of meetings of the Trustees stating the general nature of the business to be transacted thereat shall be dispatched by the Secretary to the Trustees.

6.4 Subject always to Clause 8.2 the Trustees may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and in such a way as to comply with the provisions of Part I of the Pensions Act 1995. The Chairman nominated as described above shall take the chair at every meeting of the Trustees at which he is present but in the event of there being no such Chairman present at a meeting of the Trustees the Trustees who are present at that meeting shall choose one of their number to be the Chairman for that meeting.

6.5 All business brought before a meeting of the Trustees shall, except as hereinafter provided, be decided by resolutions passed by a majority of the votes of the Trustees present and voting thereon and in the event of any equality of votes the Chairman of the meeting shall have a second casting vote. Any resolution shall, in order to be passed, require not less than six votes (including the second or casting vote, if any, of the Chairman) given in favour of the resolution.

6.6 The quorum for the transaction of business at any meeting of the Trustees shall be six of the Trustees and provided that there is a quorum the continuing Trustees may act notwithstanding any vacancies in their body.

6.7 A resolution in writing circulated to all the Trustees for the time being in the United Kingdom and signed as approved by all of those Trustees (not being less than six) shall be as effectual as

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if it had been passed at a meeting of the Trustees and such resolution may consist of two or more documents in similar form each signed by one or more of the Trustees.

6.8 The Trustees shall cause proper minutes to be kept of the proceedings at their meetings which minutes shall be signed by the Chairman of the meeting to which they refer or of the next succeeding meeting and any such minutes so signed shall be evidence of the matters stated therein.

7.

POOLED FUNDS AND SECTION STRATEGIC ASSET ALLOCATION COMMITTEES

7.1 Without prejudice to the Trustees' powers under Clause 15, the Trustees shall from time to time establish any one or more common investment funds for the purposes of investing Section Assets (a **Pooled Fund**) and may adopt and amend regulations for the purposes of such Pooled Fund or extend the scope of an existing Pooled Fund. The Section Assets shall be held in such a way that it is possible at all times to determine the Unitised Section Assets held in a Pooled Fund.

7.2 The Trustees shall establish and maintain an Investment Policy Committee to which they may, subject to Clauses 7.3 to 7.5, delegate any of their investment powers in accordance with the Pensions Act 1995. The Investment Policy Committee shall be composed of all of the Trustees who are members of any Section Strategic Asset Allocation Committees established pursuant to Clause 7.3 below. If the membership of the Investment Policy Committee does not already include the chairman of the Trustees nominated under Clause 6.1, he may be appointed by the Trustees as an additional member of such committee.

7.3 The Trustees shall establish and maintain for each Section of the Scheme a separate Section Strategic Asset Allocation Committee to which they shall delegate their powers to determine the proportion of Section Assets to be held in any Pooled Fund or other investment approved by the Trustees.

7.4 Each Section Strategic Asset Allocation Committee shall be composed of three Trustees and the Trustees shall appoint and remove members of the Section Strategic Asset Allocation Committees having consulted with the Sponsoring Section Employer of the relevant Section. In addition, each Section Strategic Asset Allocation Committee may also have a fourth member, being the chairman of the Trustees for the time being nominated under Clause 6.1, who may be appointed by the Trustees, having consulted with the Sponsoring Section Employer. The fourth member of the Section Strategic Asset Allocation Committee so appointed may act as the chairman of each Section Strategic Asset Allocation Committee. A Sponsoring Section Employer may at any time request the Trustees to consult with it over the appointment, removal or continuance in office of the fourth member of the Section Strategic Asset Allocation Committee of its Section.

Unless otherwise agreed with the relevant Sponsoring Section Employer, the members of the Section Strategic Asset Allocation Committee, excluding the chairman of the Trustees, shall be Trustees who are employees or former employees of the Sponsoring Section Employer of the relevant Section or of an Employer participating in the relevant Section. In relation to members in the NATS Section, a former employee shall be determined by reference to employment after 1 April 1996.

7.5 Without prejudice to their powers under Clause 8.6, the Trustees may, after consultation with the Section Strategic Asset Allocation Committee, appoint one or more professional advisers to advise a Section Strategic Asset Allocation Committee.

7.6 Each Section Strategic Asset Allocation Committee shall from time to time decide the proportion of Section Assets to be held in each Pooled Fund or other investment approved by the Trustees. In taking such decisions, each Section Strategic Asset Allocation Committee shall have regard to the advice of any of its professional advisers appointed by the Trustees under Clause 7.5. The Trustees may overturn a decision of a Strategic Section Asset Allocation Committee, having consulted with the relevant Sponsoring Section Employer, only if they consider, having consulted

with the Actuary, that the decision is liable to prejudice the security of interests of Members in that Section.

7.7 Each Section Strategic Asset Allocation Committee shall meet together for the despatch of their business and otherwise regulate their meetings as they see fit.

7.8 The Trustees may request information or documents from any Section Strategic Asset Allocation Committee, which committee shall be required to respond promptly to such request and deliver any information or documents so requested.

8.

TRUSTEES' DUTIES AND GENERAL POWERS

8.1 The Trustees shall be the Administrator of the Scheme for the purposes of Chapter I of Part XIV of the Taxes Act⁽³⁾.

8.2 The Trustees shall meet for the despatch of business relevant to the Scheme and each Section at intervals not exceeding six months and shall do such things as they shall consider necessary for the proper administration of the Scheme and each Section.

8.3 The Trustees shall have all powers rights and privileges in connection with the Scheme and each Section requisite or proper to enable them to carry out or execute or do any transaction act deed or thing arising under or in connection with the Scheme or each Section.

- (a) (a) The Trustees shall have power from time to time to delegate any business in relation to the Scheme or a Section to one or more of their number.
- (b) The Trustees shall have power to delegate to any reputable person, firm or corporation all or any of the powers, duties, authorities and discretions (including, subject to the provisions of section 34 of the Pensions Act 1995⁽⁴⁾, investment decisions) hereby conferred on the Trustees on such occasion or for such period and otherwise on such terms and conditions as the Trustees may think fit and the Trustees shall not be bound to supervise the exercise of the said powers, duties, authorities and discretions or the performance thereof by such person, firm or corporation and shall not be responsible for any loss incurred as a result of such delegation or for the negligence or default of any such person, firm or corporation.

8.5 The Trustees shall have power to authorise such persons and employ such agents and staff to transact any business relevant to the Scheme or any Section, including the drawing of cheques and making payments and giving receipts, as the Trustees may think fit and any such payment duly made in good faith by such persons agents or staff shall operate as a good and sufficient discharge to the Trustees, and any receipt and discharge given by such persons agents or staff shall be as valid and as effectual as if it were given by the Trustees. The Trustees shall not incur any liability or responsibility whatsoever in respect of any business transacted by any person, agents or staff authorised or employed in good faith in accordance with this Clause 8.5.

8.6 The Trustees shall have power to obtain the advice or opinion of any lawyer, broker, actuary, accountant, medical practitioner or other professional person with regard to their powers duties and discretions in relation to the Scheme or a Section wherever they feel it necessary or expedient and to rely and act upon any advice so obtained without incurring any liability or responsibility whatsoever in the event of the negligence or default of any such person or in the event of any action taken by the Trustees as a result of such advice proving subsequently to be incorrect or inadequate.

(3) 1988 c. 1.
(4) 1995 c. 26.

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8.7 The Trustees shall, have power to make arrangements for the remuneration of the persons or bodies referred to in Clauses 8.5 and 8.6 above upon such terms as they shall think fit and any amounts so paid shall be deemed to be part of the expenses incurred by the Trustees in carrying out the trusts and provisions of the Scheme or the relevant Section (under Clause 13).

8.8 The Trustees shall have power (whether as Trustees or Administrator) to give undertakings to the Board of Inland Revenue.

8.9 The Trustees shall secure that such arrangements as are required by or under Section 50 of the Pensions Act 1995 for the resolution of disagreements between persons prescribed for the purposes of that section about matters related to the Scheme or any Section are made and implemented.

8.10 Subject always to Clause 8.9 above, the Trustees shall have power to determine all questions and matters of doubt arising in connection with the Scheme or any Section whether relating to the contributions thereto or the benefits thereunder or otherwise and also to settle compromise or submit to arbitration any claims relating to the Scheme or to the rights of any Member or other beneficiary thereunder and no decision of or exercise of a power or discretion by the Trustees shall be invalidated or questioned on the ground that any of the Trustees had a direct or personal interest in the result of any such decision or in the exercise of any such power or discretion, provided always that in the event of any dispute arising as between the Trustees and any person entitled to or claiming to be entitled to any benefit under the Scheme or any Section such dispute may be referred by such person to a single arbitrator to be named by the President for the time being of the Law Society of England and Wales and the arbitrator so named shall have all the powers conferred on arbitrators by the Arbitration Act 1996⁽⁵⁾.

8.11 The Trustees shall have power to insure any or all of the assets of the Scheme for such amount and against such eventualities or risks as they consider appropriate, including the power to effect insurance against any potential loss of or depreciation in such assets and insurance in respect of any loss to the Fund caused by or arising out of any action claim or demand made against the Trustees for loss suffered by the Trustees (or their agents delegated or appointed officers). The premiums for any such insurances shall be apportioned by the Trustees in accordance with Clause 13, provided that no amount shall be paid out of the Section Assets attributable to a Section for the payment of premiums under an insurance policy where the risk is or includes a fine or penalty to which section 31 of the Pensions Act 1995 applies.

8.12 The Trustee shall have power from time to time whenever to do so will in their opinion operate to the advantage of the Fund (either alone or jointly with any other person, body, company or corporation) to form cause to be formed or authorise the formation or winding-up in any part of the world of any company or companies controlled directly or indirectly by the Trustees for any purpose whatsoever relating to the management and administration of the Fund (or of the Fund and other trust funds) or for the supply of financial, technical or professional advice and services of any kind whatsoever to the Trustees (or to the Trustees and other trustees) and the Trustees shall have power to pay out of the relevant Section Assets all or any of the expenses of such formation or winding-up including the preliminary or other expenses of any such company and to acquire hold and dispose of in any manner whatsoever any of the share or loan capital of any such company. A Trustee may hold any office (including without limitation the office of director or secretary) with any such company but shall not be entitled to be paid any remuneration in respect thereof provided that nothing herein contained shall prevent a Trustee from being paid all reasonable and proper expenses incurred by him in and about the performance of his duties in connection with any such office.

(5) 1996 c. 23.

9.

SCHEME SECRETARY

9.1 The Trustees shall appoint a secretary to the Scheme, such person being a person whom the Trustees consider to be suitably qualified for such appointment. The Trustees may at any time terminate the appointment of the Secretary. The Trustees shall fill every vacancy in the office of the Secretary to the Scheme as soon as practicable by appointing a suitably qualified person to that office.

10.

AUDITOR AND ACCOUNTS

10.1 The Trustees shall appoint as auditor to the Scheme an individual or a firm who or which satisfies the requirements of the Pensions Act 1995 in relation to auditors of occupational pension schemes. Any such appointment shall be on such terms as to remuneration and otherwise as shall be agreed between the Trustees and such auditor subject always to the provisions of section 47 of the Pensions Act 1995.

10.2 The Trustees may remove and replace such auditor as they deem necessary subject always to the provisions of section 47 of the Pensions Act 1995.

10.3 The Trustees shall keep such accounts, entries, registers and records as are necessary for the proper working of the Scheme and each Section and shall cause the Scheme accounts to be audited annually by the auditor appointed under Clause 10.1.

The auditor shall have access to all books, papers, vouchers, accounts and documents connected with the Scheme and each Section and shall certify in writing the result of each audit.

10.4 The Trustees shall arrange for the production of an annual report on the Scheme, such report to be divided into separate schedules for each Section. Each schedule shall incorporate the accounts and an actuarial statement based on the most recent investigation of the relevant Section referred to in Clause 12.1 and contain such other information as is required to satisfy the provisions of the Pension Schemes Act 1993⁽⁶⁾ and the Pensions Act 1995.

10.5 A copy of such annual report or the relevant schedules contained or incorporated in such annual report and a copy of the actuarial report referred to in Clause 12.1 shall be made available:

- (a) upon request, if applicable, to those persons or bodies who have a right to inspect or receive a copy of it in accordance with the Pension Schemes Act 1993 and the Pensions Act 1995, the Trustees being entitled to make such charge (if any) as is permitted under the Disclosure Regulations⁽⁷⁾;
- (b) to the Board of Inland Revenue and the Department of Social Security if such is necessary respectively for the continued recognition of the Scheme as an exempt approved scheme for the purposes of the Taxes Act and the continuance of any contracting-out certificate issued in connection with the Scheme.

A copy of such annual report shall be given to the Sponsoring Section Employers and to the other Employers in each Section.

10.6 The Trustees shall, in addition, comply with the Disclosure Regulations relating to, among other things, the provision of the following information, (and subsequent changes thereto), the Trustees being entitled to make such charge (if any) as is permitted under the Disclosure Regulations:

- (a) details of this Deed and the Rules;
- (b) basic information about the Scheme and each Section;

⁽⁶⁾ 1993 c. 48.

⁽⁷⁾ S.I.1996/1655, amended by S.I. 1997/786, 1997/819, 1997/3038.

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- (c) details of an individual's benefit under each Section when it becomes payable;
- (d) information about Member's benefits under each Section;
- (e) rights and options in respect of death benefits under each Section;
- (f) rights and options available to persons who leave any Section;
- (g) details of transfer values and cash equivalents in respect of each Section;
- (h) information to be supplied in the event of the Scheme or a Section being wound up.

10.7 The Trustees shall provide such information to the Pensions Ombudsman, the Registrar of Occupational and Personal Pension Schemes, the Occupational Pensions Regulatory Authority and the Pensions Compensation Board as may be required in accordance with the provisions of the Pension Schemes Act 1993 and the Pensions Act 1995.

11.

APPOINTMENT OF ACTUARY

11.1 The Trustees shall, without prejudice to the generality of Clause 8, appoint an actuary to the Scheme who shall be a Fellow of the Institute of Actuaries and/or the Faculty of Actuaries. Any such appointment shall be on such terms as to remuneration and otherwise as shall be agreed between the Trustees and such Actuary subject always to the provisions of section 47 of the Pensions Act 1995.

11.2 The Trustees may remove and replace such Actuary as they deem necessary, subject always to the provisions of section 47 of the Pensions Act 1995.

12.

ACTUARIAL VALUATION

12.1 The Trustees shall instruct the Actuary to investigate the financial position of the Scheme and each Section by carrying out an actuarial investigation such as to satisfy the relevant provisions of the Pensions Act 1995 within a period prescribed (and at intervals required) for the purposes of sections 41 and 57 of that Act, such that the effective date of any such valuation shall be not later than three years after the previous one or such later date as shall satisfy the relevant provisions of the Pensions Act 1995. The actuarial valuation must show the Section Assets and the Section Liabilities in respect of each Section separately.

12.2 The Trustees shall also require the Actuary to submit certificates from time to time as required for the purposes of the Pensions Act 1995.

12.3 The Trustees shall make any such valuation report and certificate or copies of them available to any other persons or bodies entitled to receive them in the circumstances and in the manner specified in the Disclosure Regulations.

12.4 The Actuary shall in making a report upon the financial position of the Scheme and each Section make any recommendations he thinks fit to the Trustees who shall submit a copy of it together with any recommendations they may wish to make in regard thereto to the relevant Sponsoring Section Employer as soon as may be practicable.

13.

EXPENSES

13.1 All costs, charges and expenses (including for the avoidance of doubt expenses relating to investment) incurred solely in connection with the establishment, administration and management of a particular Section shall be dealt with in accordance with the Rules of that Section.

13.2 All other costs, charges and expenses shall be allocated between the Sections as the Trustees determine, and met either out of the relevant Section Assets, or by one or more Employers (which may or may not include the Sponsoring Section Employer) in the relevant Section, as the Trustees decide, provided that any such amounts which consist of professional or other charges (as referred to in Clause 16) of the Trustees who are Employers' Trustees shall be paid by the Sponsoring Section Employer with whom the relevant Employers' Trustee is mostly closely identified.

14.

APPOINTMENT AND DUTIES OF FUND MANAGERS AND CUSTODIANS

14.1 Where the Fund consists of or includes investments (within the meaning of the Financial Services Act 1986⁽⁸⁾) the Trustees shall, without prejudice to the generality of Clause 8, appoint as fund manager or fund managers of the Scheme one or more corporate bodies, firms or individuals which or who satisfy the requirements of the Pensions Act 1995⁽⁹⁾ in relation to fund managers of occupational pension schemes. Any such appointment shall be upon such terms as to remuneration and otherwise as the Trustees shall agree with the fund managers subject always to the provisions of section 47 of the Pensions Act 1995.

14.2 A fund manager appointed under Clause 14.1 shall be empowered to exercise or carry out the powers of investment set out in this Deed including the holding of investments, monies and other assets of the Fund in its or his name or the name of its or his nominees as the nominees of the Trustees.

14.3 Each fund manager so appointed shall exercise the powers referred to above in such a way as to comply with the relevant provisions of Part I of the Pensions Act 1995 in so far as they apply to fund managers of occupational pension schemes.

14.4 The Trustees shall, without prejudice to the generality of Clause 8, have the power to appoint one or more firms or corporate bodies as custodians. The investments, monies and other assets of the Fund may be placed by the Trustees in the name or under the control of such custodians to the extent and in such proportions as the Trustees shall determine.

15.

POWERS OF INVESTMENT AND OTHER TRANSACTIONS

15.1 The Trustees shall have the following powers in respect of the whole or a part of any amounts held by them which are not immediately paid or applied for the purposes of the Scheme namely:

- (a) power to place or retain the same in any current account (with or without requiring any interest) in any bank or building society of good repute;
- (b) power to deposit the same with any bank or building society of good repute at such rate of interest and on such terms as the Trustees shall think fit;
- (c) power to invest in or apply the same in the acquisition or upon the security of such stocks funds bonds shares debentures debenture stocks securities unit trust units share warrants and options on shares traded options financial futures or other investments (including works of art or other property whether real or personal and whether or not of a wasting nature) of whatsoever nature and wheresoever situate whether or not income producing and whether or not involving liability and whether or not authorised by law for the investment of trust funds, and in such loans (other than loans to any of the Employers or to any Member or other person entitled to benefit from the Scheme in respect of a Member) whether secured or unsecured as the Trustees in their absolute discretion shall decide;

⁽⁸⁾ 1986 c. 60.

⁽⁹⁾ 1995 c. 26.

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- (d) power to invest or apply the same in effecting with any United Kingdom office or branch of any Authorised Insurance Company any deferred or immediate annuity assurance sinking fund deposit administration managed fund or other policies or contracts;
- (e) power to underwrite any investments or securities whether on issue or sale and whether jointly with other persons or not;
- (f) power to enter into any transaction involving financial futures, forwards, forward foreign exchange contracts, traded options, contracts for difference, over-the-counter options, swaps or other derivative instruments of whatsoever nature and wheresoever situate whether or not these impose contingent liabilities on the Scheme and whether or not authorised by law for the investment of trust funds as the Trustees in their absolute discretion shall decide;
- (g) power to enter into any transaction affecting all or any part of the Fund with any company or corporation or with the trustees of any other trust notwithstanding that the Trustees (or any of them) may be or be included among the directors of such company or the members of the governing body of such corporation or the trustees of such other trust or be the directors of any body corporate being trustees of such other trust, provided always that this power shall not be exercised to permit a transaction with any of the Employers or any Subsidiary Company or Associated Company except upon the recommendation of a competent consultant appointed by the Trustees who shall be independent of the Employers and of any Subsidiary Company or Associated Company and of any trustees referred to above, except that the recommendation of such consultant may be overruled by a unanimous decision of the Trustees, which requirement of unanimity shall not prejudice any other requirement of unanimity for a decision of the Trustees;
- (h) power to lease mortgage exchange sell or otherwise deal with any land or interest in land forming part of the Fund in like manner as if the Trustees were absolutely entitled thereto beneficially;
- (i) power to enter into any scheme either alone or with others and either directly or indirectly for the development of land or buildings whether or not owned by the Trustees.

15.2 The Trustees shall have the power to sell convert vary or transpose any investments monies and other assets of the Fund in all respects as if the Trustees were absolutely entitled to them beneficially.

15.3 The Trustees shall hold all the investments, monies and other assets of the Fund in their name and under their legal control except in so far as such investments, monies and other assets have been placed in the name or under the control of one or more fund managers or their nominees as described in Clause 14.2 or in the name or under the control of one or more custodians as described in Clause 14.4.

15.4 The Trustees shall exercise their powers under this Clause 15 to operate a bank account as required under section 49 of the Pensions Act 1995⁽¹⁰⁾.

15.5 The Trustees shall secure that there is prepared, maintained and from time to time revised a written statement of the principles governing decisions about investments for the purposes of the Scheme in accordance with the provisions of section 35 of the Pensions Act 1995 and shall exercise their powers of investment with a view to giving effect to the principles contained in such statement so far as reasonably practical.

15.6 Notwithstanding anything contained herein to the contrary the Trustees shall not make any direct investment of any part of the Fund in any of the Employers or in any property occupied by any of the Employers and shall otherwise comply with such restrictions as may be prescribed in

⁽¹⁰⁾ Section 49 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 10(1) and 18 and Schedule 2, paragraph 12.

accordance with the Pensions Act 1995 with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments (as defined in section 40 of that Act).

Power to Borrow

15.7 The Trustees may raise or borrow any monies upon such terms as they think fit (including the arrangement of an overdraft with any bank or building society of good repute) and may secure such monies by charging all or any part of any Section Assets. The monies so raised or borrowed may be applied for all or any of the purposes of the Scheme including without prejudice to the generality thereof the purchase of any investment authorised by this Deed.

16.

TRUSTEES' ENTITLEMENTS

16.1 Any Trustee not being an Employee shall be entitled to charge and be paid all usual professional or other charges for business done or services rendered or time spent by him (or by a firm of which he is an employee or partner) in relation to the trusts hereof or to the administration of the Scheme or a Section.

16.2 Any Trustee who is a Member shall be entitled to retain for his absolute benefit any benefits to which he is or becomes entitled by virtue of his membership of any Section of the Scheme.

17.

POWER OF AMENDMENT

17.1 Where a proposed amendment relates solely to the provisions of one Section, then that proposed amendment shall be subject to the Rules of that Section, and the rest of this Clause 17 shall not apply to it. Where a proposed amendment does not relate solely to the provisions of one Section then the rest of this Clause 17 shall apply to it. Amendments relating to the benefits and contributions of Members shall be subject to and only amended in accordance with the Rules of the relevant Section in which the Member participates.

17.2 Subject to Clause 17.3, the Principal Employer may with the consent of the Trustees at any time by supplemental deed amend the provisions of the Scheme by modifying altering deleting or adding to the provisions of it or by substituting new provisions to the exclusion of or in addition to all or any of the provisions for the time being in force:

- (a) in order that the provision of the trust deeds governing the Scheme shall conform with the requirements of a scheme capable of approval by the Board of Inland Revenue under Chapter I of Part XIV of the Taxes Act⁽¹¹⁾ or to obtain and maintain a contracting-out certificate under the Pension Schemes Act 1993⁽¹²⁾ in respect of the employment of the Members or any class of the Members or in order that the provisions of the said trust deeds shall effectively carry out the intentions of the Interim Deed and shall define and regulate the Scheme in accordance with the terms of any announcement made to Members and those eligible for membership prior to the 20th day of November 1976,
- (b) for any other purpose,

but no amendment shall alter the primary purpose of the Scheme or be such as to contravene the provisions of the Pensions Act 1995 in relation to the modification of schemes, and an amendment for any purpose other than those specified in paragraph (a) above shall not:

(11) 1988 c. 1.

(12) 1993 c. 48.

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- (i) make any monies of the Fund payable to the Employers except in so far as they are a surplus remaining after the termination of a Section;
- (ii) affect in any way prejudicially the benefits and interests accrued or secured of any person in the S Category or reduce the accrued or prospective benefits of existing Members other than those in the S Category,
- (iii) result in the provisions of the Rules ceasing to fulfil the terms and conditions contained in paragraphs 1 and 2 of the Outline set out in the Third Schedule to the Interim Supplemental Deed dated 20 February 1979 made between the Principal Employer of the one part and the Trustees then in office of the other part without the consent of every person in the S Category adversely affected by such amendments.

The Trustees shall have the right subject, where required in accordance with section 68 of the Pensions Act 1995⁽¹³⁾, to the consent of the Principal Employer, to modify the Scheme by resolution for the purposes described in that section. Any such modification shall be subject to the provisions of that section and of any regulations made thereunder.

17.3 In proposing an amendment under Clause 17.2, the Principal Employer will consult with the Sponsoring Section Employer of the NATS Section and will not propose an amendment which would prejudice that Sponsoring Section Employer's business and operational interests.

17.4 Without prejudice to the powers of the Principal Employer under this Clause 17, HIAL with the consent of the Principal Employer and the Trustees may amend the provisions of the Scheme in so far as they relate to HIAL Members. Any such amendment shall be subject otherwise to the provisions of Clause 17.2.

17.5 As soon as practicable after agreeing or deciding to amend the provisions of this Deed or the Rules in accordance with this Clause 17, being amendments to the documents constituting the Scheme or to information which any person has a right to receive in accordance with the Disclosure Regulations, the Trustees shall arrange for the relevant person or persons to be notified. If such person is a Member the Trustees shall notify or arrange for the notification of each Member affected thereby individually in writing or by exhibiting a notice at the relevant locations of work or employment and make the appropriate amendment taking into account any requirements of the Board of Inland Revenue, the Occupational Pensions Regulatory Authority or the Department of Social Security in respect thereof.

18.

LIABILITY OF TRUSTEES

18.1 No Trustee shall be liable for any actions claims or demands arising out of anything done or caused to be done or omitted by him in connection with the Scheme and costs arising therefrom, except for:

- (a) an act or omission which he knew to be a breach of trust and which he knowingly and wilfully committed or omitted as the case may be; and
- (b) an act or omission in respect of which a Trustee incurs a fine or penalty as referred to in section 31 of the Pensions Act 1995; and
- (c) an act or omission for which liability in relation to the investment of the Fund cannot be excluded or restricted in accordance with section 33 of the Pensions Act 1995.

⁽¹³⁾ Section 68 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 84(1) and Schedule 12, Part I, paragraphs 43 and 54.

Trustee indemnity

18.2 Where any action, claim or demand arises in connection with one Section only out of anything done or caused to be done or omitted (whether by way of investment or otherwise) by the Trustees and the Secretary, and employees of the Employers acting under the instructions of the Trustees or the Secretary, those persons are indemnified by the Employers participating in that Section against such actions, claims or demands, and costs arising from them (except an act or omission which any such person knew to be a breach of trust and which he knowingly and wilfully committed or omitted, as the case may be). Such indemnity shall be in proportion to the values of the accrued interests of those Employers' employees who are Current Members and the Pensioners in that Section, or on another basis determined by the Trustees which would not prejudice approval of the Scheme under Chapter I of Part XIV of the Taxes Act.

18.3 Where any action, claim or demand arises in connection with more than one Sections out of anything done or caused to be done or omitted (whether by way of investment or otherwise) by the Trustees and the Secretary, and employees of the Employers acting under the instructions of the Trustees or the Secretary, those persons are indemnified by the Employers participating in those Sections against such actions, claims or demands, and costs arising from them (except an act or omission which any such person knew to be a breach of trust and which he knowingly and wilfully committed or omitted, as the case may be). Such indemnity shall be in proportion to the values of the accrued interests of those Employers' employees who are Current Members and the Pensioners in those Sections, or on another basis decided by the Trustees which would not prejudice approval of the Scheme under Chapter I of Part XIV of the Taxes Act.

18.4 To the extent that they are not indemnified by the Employers under Clause 18.2 or 18.3, any such person shall be indemnified out of the Section Assets of the relevant Section or Sections, but not in respect of acts or omissions referred to in paragraphs (a) to (c) in Clause 18.1 above.

18.5 The Trustees shall not be liable in respect of any payment to any person erroneously made by them in good faith in the belief (having regard to Rule 22) that the person was entitled to it. A receipt issued to the Trustees by any person for any payment made to such person shall be a good and sufficient discharge of the obligations of the Trustees.

18.6 The Trustees shall be liable only for such monies and assets as they shall actually receive and shall in no event be liable for any interest in respect of such monies or if the Section Assets of the relevant Section are insufficient to pay the benefits under that Section whether by reason of the contributions payable by Employers into the Section being insufficient or by reason of any Employer failing to pay the contributions or by reason of any loss or depreciation of any of the assets of the Scheme.

Trustee insurance

18.7 The Trustees shall have power to take out insurance against any loss caused by or arising out of any action, claim or demand made against any Trustee or former Trustee or any of their delegates or any officer or employee of a corporate trustee. The Trustees may also insure themselves and any of those persons against liability for breach of trust not involving the personal conscious wrongdoing or fraud of the person concerned. The premiums of any such insurance shall be treated as an expense of the Scheme, and dealt with in accordance with Clause 13.2, but subject to section 31 of the Pensions Act 1995.

19.

ESTABLISHING NEW SECTIONS

19.1 An Employer currently participating in a Section or a Subsidiary Company or Associated Company or Non-Associated Company (the applicant) may establish a new Section within the

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Scheme, with the consent of the Trustees and the Sponsoring Section Employers of the CAA Section and the NATS Section, subject to the provisions of this Clause, except that where an applicant wishes to establish a new Section in respect of the continued participation in the Scheme of a Protected Member, who would otherwise cease to be a Current Member, the consent of the Sponsoring Section Employers shall not be required to the applicant's participation in respect of that Protected Member.

19.2 If the applicant is permitted under Clause 19.1 above to establish a new Section, it must enter into a deed of establishment and participation with the Trustees in which it agrees to comply with the Trust Deed and Rules, establishing and naming its Section of the Scheme; identifying itself as the employer who is to be treated as the Sponsoring Section Employer for its Section; adopting and agreeing to comply with rules in substantially the form of the CAA Rules or the NATS Rules as appropriate.

20.

CHANGE OF PRINCIPAL EMPLOYER

20.1 If legislation is passed for the reconstruction or reconstitution of the Principal Employer or if the Principal Employer is absorbed by or amalgamated with a company or another body or if the undertaking of the Principal Employer (or the major part thereof) is assigned to or vested in a company or other body the Trustees may make such arrangements or enter into such agreements (not being arrangements or agreements of such a kind as to prejudice the continued approval of the Scheme) as they think fit for the continuance of the Scheme and for such reconstructed or amalgamated or other company or body to take the place of and become the Principal Employer for all purposes of the Scheme from the date agreed with the Trustees provided that such company or body shall undertake to perform all the obligations of the Principal Employer under the Trust Deed.

20.2 If the Principal Employer gives notice in writing to the Trustees of termination of its liability to contribute to the Scheme as described in Rule 44 or of termination of its willingness to continue as Principal Employer in relation to the Scheme, the Trustees may, provided that recognition of the Scheme as an exempt approved scheme for the purposes of Chapter 1 of Part XIV of the Taxes Act is not thereby prejudiced, request one of the other Employers to assume the obligations and duties of the Principal Employer and if such other Employer is willing to do so such employer shall take the place of and become the Principal Employer for all purposes of the Scheme from a date agreed with the retiring Principal Employer and the Trustees;

20.3 If it appears to the Principal Employer that the Trustees will be unable to make arrangements as described in Clause 20.1 the Principal Employer may, after consultation with the Trustees, request one of the other Employers to assume the obligations and duties of the Principal Employer on the basis described in Clause 20.2 and subject to the proviso to that Clause.

21.

INSOLVENCY: POWERS OF INDEPENDENT TRUSTEES

21. In the circumstances when an insolvency practitioner or the official receiver is appointed and acts as described in Part I of the Pensions Act 1995(14), any powers under the Scheme which are vested in the Trustees, the Administrator or any of the Employers and which are exercisable at their discretion shall, to the extent set out in that Part, be exercisable by one or more Trustees who are independent trustees for the purposes of that Part.

(14) 1995 c. 26.