

**BETWEEN:**

- (1) **BPDTS LIMITED** of (company registered number 10344843) whose registered office is at Fao Company Chief Executive Officer, Caxton House, Tothill Street, London, SW1H 9NA ("**Participating Employer**");
- (2) **PTL GOVERNANCE LIMITED** (company registered number 02952373) whose registered office is at 47 Castle Street, Reading, Berkshire, RG1 7SR, **WRIGLEYS PENSIONS TRUSTEES LIMITED** (company registered number 06870990) whose registered office is at 19 Cookridge Street, Leeds, West Yorkshire LS2 3AG, **ANNE HUNT** of 12 Oban Grove, Fearnhead, Warrington, Cheshire, WA2 0TG and **JONATHAN PARKER** of 5 Winterhill Way, Guildford, Surrey, GU4 7JX, ("**Scheme Trustee**");
- (3) **AVIVA LIFE AND PENSIONS UK LIMITED** (Company Number 03253947) whose registered office is at Wellington Row, York, North Yorkshire, YO90 1WR ("**Sponsor**")

**BACKGROUND:**

- A The Participating Employer, the Sponsor and the Scheme Trustee have agreed that the Participating Employer will participate in the Aviva Master Trust ("**Scheme**") which is an occupational pension scheme governed by a definitive trust deed and rules dated 21 January 2014 and as amended from time to time ("**Trust Deed**") for employees of non-associated employers.
- B The Scheme Trustee is the current trustee of the Scheme. The Participating Employer's participation in the Scheme is governed by a deed of participation between the Participating Employer the Sponsor and the Scheme Trustee ("**Deed of Participation**") pursuant to which the Participating Employer undertakes to comply with the trust deed and rules governing the Scheme ("**Scheme Rules**").
- C This Agreement is intended to govern the relationship between the Participating Employer, the Sponsor and the Scheme Trustee.

**OPERATIVE PROVISIONS**

**1. CONFLICTS OF INTEREST**

- 1.1 The Sponsor shall take appropriate steps to ensure that the Sponsor is not placed in a position where, in the reasonable opinion of the Sponsor, there is or may be an actual conflict, or a potential conflict, between the financial or personal interests of the Sponsor and the duties owed to the Participating Employer under the provisions of this Agreement. The Sponsor will disclose to the Participating Employer full particulars of any such conflict of interest which may arise.
- 1.2 The Scheme Trustee shall take appropriate steps to ensure that the Scheme Trustee is not placed in a position where, in the reasonable opinion of the Scheme Trustee, there is or may be an actual conflict, or a potential conflict, between the financial or personal interests of the Scheme Trustee and the duties owed to the Participating Employer under the provisions of this Agreement. The Scheme Trustee will disclose to the Participating Employer full particulars of any such conflict of interest which may arise.

1.3 The Scheme Trustee shall maintain a conflicts of interests policy and a conflicts of interests register in relation to their role as Trustees of the Scheme which will be subject to annual independent audit. A copy of the auditor's report will be made available to BPDTS on request.

1.4 The Participating Employer reserves the right to terminate this Agreement and its participation in the Scheme immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Participating Employer, there is or may be an actual conflict, or a potential conflict, between the financial or personal interests of the Sponsor and the Scheme Trustee and the duties owed to the Participating Employer under the provisions of this Agreement. The actions of the Participating Employer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Participating Employer.

## **2. PREVENTION OF FRAUD**

2.1 The parties to this agreement place the utmost importance on the need to prevent fraud and irregularity. The Sponsor and the Scheme Trustee are therefore required to:

2.1.1 have an established system that enables the Scheme Trustee's staff and the Sponsor's staff to report inappropriate behaviour by colleagues;

2.1.2 ensure that their performance management systems do not encourage individual staff members of the Scheme Trustee or the Sponsor to make false claims;

2.2 The Sponsor is also required to:

2.2.1 ensure that an audit system is implemented to provide periodic checks, as a minimum at twelve monthly intervals, to ensure effective and accurate recording and reporting of contract performance.

2.2.2 report contract performance through the provision of governance reports to the Participating Employer sent at six monthly intervals.

2.2.3 The Sponsor is also required to ensure a segregation of duties within the Sponsor's operation between those directly involved in delivering the service and those reporting achievement of performance to the Participating Employer;

2.3 Any act of fraud committed by the Sponsor or the Scheme Trustee under this Agreement shall entitle the Participating Employer to terminate this Agreement and the Participating Employer's participation in the Scheme, by serving written notice on the Sponsor and Scheme Trustee.

## **3. PREVENTION OF BRIBERY AND CORRUPTION**

3.1 For the purposes of this clause 3, a prohibited act is committed when the Sponsor or any of their staff or the Scheme Trustee or any of their staff:

3.1.1 directly or indirectly offers, promises or gives any person working for or engaged by the Participating Employer a financial or other advantage to:

3.1.1.1 induce that person to perform improperly a relevant function or activity; or

- 3.1.1.2 reward that person for improper performance of a relevant function or activity;
  - 3.1.2 directly or indirectly requests, agrees to receive or accepts any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Agreement or Participating Employer's participation in the Scheme;
  - 3.1.3 commits any offence:
    - 3.1.3.1 under the Bribery Act 2010;
    - 3.1.3.2 under legislation creating offences concerning fraudulent acts;
    - 3.1.3.3 at common law concerning fraudulent acts relating to the Agreement or any other contract with the Participating Employer; or
    - 3.1.3.4 defrauding, attempting to defraud or conspiring to defraud the Participating Employer.
- 3.2 The Scheme Trustee and the Sponsor shall not, and the Sponsor and the Scheme Trustee shall ensure that any of their staff shall not, commit any of the prohibited acts listed in clause 3.1.
- 3.3 The Sponsor shall have an anti-bribery policy which is designed to prevent the Sponsor or any of the Sponsor's staff from committing any prohibited acts as set out in clause 3.1 and a copy of this shall be provided to the Participating Employer upon request.
- 3.4 The Scheme Trustee shall have an anti-bribery policy which is designed to prevent the Scheme Trustee or any of the Scheme Trustee's staff from committing any prohibited acts as set out in clause 3.1 and a copy of this shall be provided to the Participating Employer upon request.
- 3.5 If the Scheme Trustee or any of their staff or the Sponsor or any of its staff engage in conduct prohibited by clause 3.1, the Participating Employer may terminate the Agreement (and the Participating Employer's participation in the Scheme) and recover from the Sponsor and/or the Scheme Trustee the amount of any loss suffered by the Participating Employer resulting from the termination. The Sponsor shall indemnify the Scheme Trustee in respect of any losses, claims or expenses they may incur as a result of a claim by the Participating Employer under the indemnity for the benefit of the Participating Employer stated in this clause 3.5. These obligations shall be a continuing obligation following termination of this Agreement or the retirement or removal of the Scheme Trustee.
- 3.6 In exercising its rights and remedies under clause 3.5 above, the Participating Employer shall act in a reasonable and proportionate manner having regard to such matters as the gravity of the prohibited act and the identity of the person committing such an act.

#### **4. FREEDOM OF INFORMATION AND AUDIT**

The Sponsor and the Scheme Trustee acknowledges that the Participating Employer is a public body and is subject to the requirements of the Freedom of Information Act and inspection by the National Audit Office. The Sponsor and Scheme Trustee shall assist and cooperate with the Participating Employer to enable the Participating Employer to comply

with either their information disclosure obligations or any audit obligations required or imposed for internal auditing purposes or by the National Audit Office.

## 5. DISCRIMINATION

The Sponsor and the Scheme Trustee shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Sponsor and the Scheme Trustee shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

## 6. CONFIDENTIAL INFORMATION

6.1 For the purposes of this Agreement "**Confidential Information**":

6.1.1 means any information which has been designated as confidential by any Party in writing or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored) including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Participating Employer Sponsor or Scheme Trustee, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential; and

6.1.2 does not include any information:

6.1.2.1 which was public knowledge at the time of disclosure (otherwise than by breach of this clause 6;

6.1.2.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

6.1.2.3 which is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or

6.1.2.4 is independently developed without access to the Confidential Information.

6.2 Except to the extent set out in this clause 6, or to the extent that the Participating Employer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions, or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall during the term of this Agreement but also as a continuing obligation following termination of this Agreement:

6.2.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly;

6.2.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.; and

- 6.3 Nothing in this Agreement shall prevent the Participating Employer from disclosing the Sponsor or Scheme Trustee's Confidential Information:
- 6.3.1 to any government department or any part of the Crown, or any other body engaged by the Participating Employer for any purpose relating to or connected with this Agreement (a "Contracting Body"). All government departments or any part of the Crown or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments, or other parts of the Crown or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or the Crown;
  - 6.3.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
  - 6.3.3 to any consultant, professional adviser, supplier or other person engaged by the Participating Employer under 6.3.1 or 6.3.2 or any person conducting a Cabinet Office gateway review where such disclosure is required to enable them to comply with their professional obligations and subject to their agreement that the Confidential Information shall not be disclosed by them to any other party.
  - 6.3.4 on a confidential basis for the purpose of the exercise of its rights under the agreement, including (but not limited to) for auditing purposes, and for the purpose of the examination and certification of the Participating Employer's accounts; or
  - 6.3.5 for any examination of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Participating Employer has used its resources.
- 6.4 Clause 6 shall not apply to the extent that:
- 6.4.1 such disclosure is a requirement of law placed upon the Party making the disclosure, including any requirements for disclosure under the Freedom of Information Act;
  - 6.4.2 such disclosure is a requirement placed upon the Party making the disclosure by the Pensions Regulator;
  - 6.4.3 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - 6.4.4 such information was obtained from a third party without obligation of confidentiality;
  - 6.4.5 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
  - 6.4.6 it is independently developed without access to the other Party's Confidential Information.
- 6.5 The Participating Employer shall use all reasonable endeavours to ensure that any government department, part of the Crown, Contracting Body, employee, third party or sub-contractor to whom the Scheme Trustee or Sponsor's Confidential Information is disclosed pursuant to clause 6 is made aware of the Participating Employer obligations of confidentiality.

- 6.6 Nothing in this clause 6 shall prevent any Party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.
- 6.7 Any breach by the Sponsor or Scheme Trustee of this clause 6 shall be a material breach of this Agreement and shall entitle the Participating Employer (at its absolute discretion) to exercise its rights to terminate this Agreement or to cease to participate in the Scheme.

## **7. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES**

### **7.1 The Sponsor shall not:**

- 7.1.1 make any press announcements or publicise this Agreement or its contents in any way; or
- 7.1.2 use the Participating Employer's name or brand in any promotion or marketing or announcement of orders;

without the written consent of the Participating Employer, which shall not be unreasonably withheld or delayed.

### **7.2 The Scheme Trustee shall not**

- 7.2.1 make any press announcements or publicise this Agreement or its contents in any way; or
- 7.2.2 use the Participating Employer's name or brand in any promotion or marketing or announcement of orders;

without the written consent of the Participating Employer, which shall not be unreasonably withheld or delayed.

- 7.3 The Sponsor and Scheme Trustee shall take reasonable steps to ensure that their employees, agents, Sub-contractors, Scheme Trustees, professional advisors and consultants comply with clause 7.1 during the term of this Agreement but also as a continuing obligation following termination of this Agreement.

## **8. DATA PROTECTION AND INTELLECTUAL PROPERTY RIGHTS**

- 8.1 The Sponsor and Scheme Trustee shall comply with their duties and obligations under the Data Protection Act 1998. Where the Scheme Trustee or Sponsor transfers data outside the European Economic Area it will have in place with the party receiving the data the standard contractual clauses (EU Model clauses) in compliance with the EU Data Protection Directive 95/46/EC. The Sponsor and Scheme Trustee shall indemnify the Participating Employer in respect of any losses, claims or expenses they may incur as a result of any breach by the Sponsor or the Scheme Trustee of their duties and obligations under the Data Protection Act 1998. The Sponsor shall indemnify the Scheme Trustee in respect of any losses, claims or expenses they may incur as a result of a claim by the Participating Employer under the indemnity for the benefit of the Participating Employer stated in this clause 8.1. These obligations shall be a continuing obligation following termination of this Agreement or the retirement or removal of the Scheme Trustee.

8.2 Save as agreed under the Agreement, neither the Participating Employer nor the Sponsor nor the Scheme Trustee shall acquire any right, title or interest in the other's pre-existing intellectual property rights. The Sponsor and the Scheme Trustee acknowledges that any data including personal data supplied or created in order to provide the services is the property of the Participating Employer hereby reserves all intellectual property rights which may exist in such data.

9. **CONTRACT CHANGE**

9.1 No change, amendment, variation, restatement or supplement to this Agreement shall be effective unless it is made in writing and agreed by the Parties.

9.2 The Sponsor and Scheme Trustee will procure that this Agreement shall be binding on any successors in title.

10. **SEVERABILITY**

If any provision of the Agreement is held invalid, illegal or unenforceable- for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Agreement shall continue in full force and effect as if the Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

11. **FINANCIAL ASSURANCE**

11.1 The Sponsor is required to disclose immediately to the Participating Employer any material changes to the organisation that impacts on its ongoing financial viability including details of the revenue replacement strategy and impact awareness on the organisation's profitability and stability where significant contracts are due to end unless prohibited to do so by law.

11.2 The Sponsor is required to notify the Participating Employer immediately of proposed changes to the organisational control or group structure, proposed mergers or acquisitions or proposed changes to the Sponsor's financial viability unless prohibited to do so by law.

12. **GOVERNING LAW**

This Agreement shall be governed and construed in accordance with the laws of England and Wales.

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