

THE INDUSTRY-WIDE MINeworkERS' PENSION SCHEME (THE "SCHEME")

The Co-Ordinator wishes to amend the Trust Deed and Rules by the addition of provisions to level down benefits in the light of the Employment Equality (Age) Regulations 2006.

- (A) By clause 38(1) of the Trust Deed, the Co-Ordinator may with the consent of the Committee of Management amend the Trust Deed and Rules (the "**Scheme Amendment Power**").
- (B) In exercise of the Scheme Amendment Power the Committee of Management with the consent of the Co-Ordinator wishes to resolve as set out in clauses 1 and 2 below and with effect on and from the date hereof (the "**Amendment Date**") to make certain changes to the Scheme for the purposes of complying with legislation prohibiting discrimination on grounds of age (the "**Age Discrimination Legislation**").
- (C) The Actuary has confirmed to the Trustee for the purposes of regulation 42(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 that he is satisfied that if the proposed alterations are made the Scheme will continue to satisfy the statutory standard in accordance with section 12A of the Pension Schemes Act 1993 (the "**Statutory Standard**").
- (D) The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (the "**Consultation Regulations**") prohibit employers and trustees in certain circumstances from making prescribed changes to an occupational or personal pension scheme unless consultation has been carried out as required by those regulations. Regulation 10 of the Consultation Regulations provides that such consultation is not required where the change is made for the purposes of complying with a statutory provision.

OPERATIVE PROVISIONS:

1. With effect on and from the Amendment Date and pursuant to the Scheme Amendment Power the Committee of Management with the consent of the Co-Ordinator hereby resolves to alter the Rules in the manner and to the extent necessary to implement and comply with the changes set out in Schedule 1 so that the Scheme shall be administered with effect on and from the Amendment Date as if the necessary textual modifications to the Rules had been made.
2. Without prejudice to clause 1 above and pursuant to the Scheme Amendment Power the Committee of Management with the consent of the Co-Ordinator hereby resolves to alter the Rules with effect on and from the Amendment Date to insert the following new rule as rule 49A of the Rules:

"49A. Prevention of Discrimination on Grounds of Age

- 49A.1 Subject to clauses 49A.2 to 49A.10 where on or after *29 January 2007* any of the terms of the Scheme would, but for this clause, unlawfully treat a member or group of members (the "**Less Favoured Members**") less favourably than another member or group of members (the "**More Favoured Members**") on grounds of age then with effect on and from *29 January 2007* the term is modified so as to disapply the more favourable treatment in respect of the More Favoured Members to the extent required to ensure that the application of the term to the More Favoured Members and the Less Favoured Members is not unlawful.

49A.2 Clause 49A.1 shall not apply to the extent that, following any modification of a term pursuant to that clause, the Scheme would cease to satisfy the Statutory Standard.

49A.3 In relation to the application of clause 49A.1:

- (a) if the Committee of Management becomes aware that a term has or may have been modified pursuant to clause 49A.1 it shall give written notice of such modification to the Co-Ordinator as soon as reasonably practicable; and
- (b) if the Co-Ordinator becomes aware that a term has or may have been modified pursuant to clause 49A.1 it shall give written notice of such modification to the Committee of Management as soon as reasonably practicable.

49A.4 If the Committee of Management becomes aware that it has been:

- (a) making payments to or in respect of members; or
- (b) making statements to members about benefits which will or may become payable to or in respect of members at a future date

where payment of those benefits constitutes or would constitute a breach of a term as that term is modified by clause 49A.1 then the Committee of Management shall:

- (c) make whatever adjustments are necessary to benefits in payment or to statements about the payment of future benefits to ensure that from the date of the adjustment the benefits paid and statements made about benefits accurately reflect the provisions of the Rules and requirements of legislation prohibiting discrimination on the grounds of age; and
- (d) have power to set off any overpayments of benefit made to or in respect of a member in breach of a modification of a term pursuant to clause 49A.1 against any future payments of benefit to or in respect of that Member.

49A.5 Without prejudice to the provisions of the Scheme Amendment Power the Committee of Management may in writing direct that any term that has been amended pursuant to clause 49A.1 shall be further amended to have effect (including retrospective effect) so that:

- (a) the treatment of members or a group of members under the term is more favourable than it would have been but for the exercise of this power; and
- (b) the application of the term does not constitute unlawful discrimination on grounds of age.

49A.6 In this clause:

- (a) a "member" means a Member and, in relation to admission to the Scheme, any individual not eligible to be a Member where that ineligibility constitutes unlawful treatment on grounds of age; and
- (b) a "term" means a term under the Rules and any provision, criterion, action, decision or practice applied by an Employer or the Committee of

Management as to the terms on which a person becomes a Member or is treated as a Member.

49A.7 This clause does not have effect in relation to rights accrued or benefits payable in respect of periods of Pensionable Service prior to *29 January 2007*.

49A.8 Notwithstanding any other provisions in the Rules regarding the making of payments which would not be authorised payments for the purposes of the Finance Act 2004, the Committee of Management shall have power to make a payment from the assets of the Scheme that is or may be an unauthorised payment for the purposes of that Act where the payment is made in breach of a term as that term is modified by clause 49A.1 and:

- (a) the Committee of Management was not aware of the breach at the time the payment was made;
- (b) the Committee of Management was aware of the breach at the time the payment was made but it was not reasonably practicable to prevent the payment being made; or
- (c) the Co-Ordinator has consented to the payment being made.

49A.9 The Committee of Management with the consent of the Co-Ordinator shall have full power to determine any matters of ambiguity or dispute arising out of the application of this clause to the terms of the Scheme."

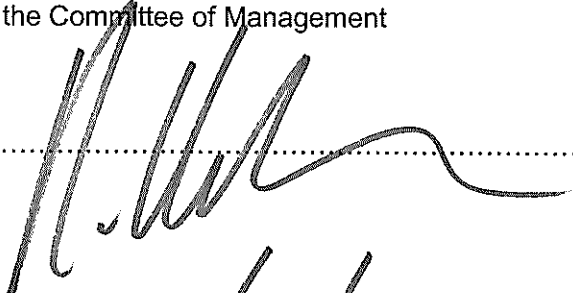
- 3. The Committee of Management and the Co-Ordinator hereby agree that:
 - 3.1 with effect on and from the Amendment Date they will each use all reasonable endeavours to ensure that the Scheme is administered as altered and modified in accordance with clauses 1 and 2 above;
 - 3.2 definitive alterations to the Rules to reflect the amendments set out in Schedule 1 and clause 1 above will be adopted as soon as reasonably practicable by the execution of an amending resolution or resolutions and will then have effect retrospectively to the effective dates of such changes under this resolution or resolutions and, if there is any conflict or ambiguity, the provisions of the definitive resolution or resolutions will prevail;
 - 3.3 the Committee of Management with the consent of the Co-Ordinator shall have full power to determine any matters of ambiguity or dispute arising out of the alterations and modifications under clause 1 and the application of the Age Discrimination Legislation to the Scheme until such time as definitive alterations to the Rules are adopted; and
 - 3.4 For the avoidance of doubt, if any alteration made pursuant to clauses 1 or 2 above is subsequently held not to have been required to secure conformity with the non-discrimination rule treated as being included in the Scheme in accordance with paragraph 2(1) of Schedule 2 to the Employment Equality (Age) Regulations 2006 this shall not prejudice the validity of the other provisions of this resolution and alterations made under it.
- 4. Words and expressions used in this resolution and the opening recitals and not defined shall so far as is consistent with the subject matter and where the context admits have the meaning attributed to them in the Rules and shall be subject to the provisions as to interpretation contained in the Rules.

SCHEDULE 1

Members will be entitled to continue to accrue benefits under the Scheme on attaining Pensionable Age where they remain in service and shall be eligible for the same benefits as apply to members under Pensionable Age except where it is objectively justifiable to deny members over Pensionable Age such benefits.

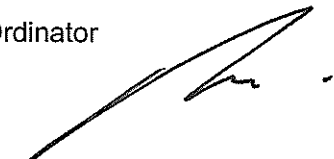
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On behalf of the Committee of Management

Date


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23/1/07

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On behalf of the Co-Ordinator

Date


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29/1/07