

# THE talbotandmuir SIPP

## Terms and Conditions

### 1. Introduction

These *terms and conditions* use expressions, shown in italics that are defined in the glossary at the end.

These *terms and conditions* describe the operation of *your SIPP*. *Your* signed application to join or take benefits from *your SIPP*, and/or *your* membership of *your SIPP* confirms *your* agreement to these *terms and conditions*, the fees set out in the *schedule of fees and services* and the *rules*. The *terms and conditions*, together with the documents listed immediately below, form the basis of a legally binding agreement between *us* and *you*:

- the application form(s) that *you* have signed or that has been signed on *your* behalf;
- the Declarations form that *you* have signed;
- the schedule of fees and services;
- the permitted investments list;
- the key features document provided to *you*.

If there is any conflict between these *terms and conditions* and the documents listed above, these *terms and conditions* will take precedence.

The *scheme* is legally constituted and governed by the *rules* (including any Supplemental Deed *you* have entered into). If there is any conflict between the *rules* and the *terms and conditions* or with any of the other documents listed above, the *rules* will prevail.

*We* are not responsible for giving, and shall not be deemed to have given, any legal, financial, investment, tax or any other advice in connection with *your SIPP* or any underlying investments or decisions associated with it.

*We* will only consider applications for a new SIPP which have been submitted by an *adviser* and *we* strongly recommend that *you* continue to retain an *adviser* whilst *your SIPP* is in force. *Your adviser* is responsible for providing financial advice about the suitability of *your SIPP*, the investments in it and the benefits taken out. Where *you* inform *us* that *you* have appointed an *adviser*, *your adviser* will be acting as an agent on *your* behalf. *We* will be entitled to take instructions from and communicate with *your adviser* unless *you* inform *us* not to do so. *We* will assume *your* relationship with *your adviser* continues until *you* inform *us* otherwise.

*We* do not accept liability for certain aspects of the operation of the *scheme*, nor does the *scheme trustee* accept liability for these aspects – see section 32. Further, *you* agree to be responsible for and pay any losses, costs and expenses incurred by *us* and the *scheme trustee*, in respect of certain aspects of the operation of the *scheme* as described in section 32.3.

*We* have the right to vary the *schedule of fees and services* and these *terms and conditions* in accordance with section 16 and section 29 respectively. Any changes will be incorporated in updated versions of these *terms and conditions*.

In addition to the documents that form the legally binding agreement, the Key Features Illustrations and other personalised statements provide important information about the *scheme*.

*You* can ask *us* for copies of these documents.

Please keep the *terms and conditions* and any other materials that *you* get in relation to the *scheme* in a safe place for future reference.

If *you* have any questions about these *terms and conditions*, or if *you* would like to obtain a copy of a document or form referred to, please contact *us* at:

Talbot and Muir, 55 Maid Marian Way, Nottingham, NG1 6GE.

*Your SIPP* is a *registered pension scheme*. The *scheme* was set up under trust by a deed between Talbot and Muir Limited as the *establisher* and TM Trustees Limited as the *scheme trustee*. The *trustees* will hold all the assets of the *scheme* in accordance with the *rules*.

We are the *scheme administrator* of the *scheme* and the company with whom *you* are contracting in respect of *your SIPP*. We administer the *scheme* in accordance with the *rules*.

We are authorised and regulated by the *FCA*. We are entered on the Financial Services Register. Our register number is 776228. *You* can check this information on the Financial Services Register by visiting the *FCA*'s website [www.fca.org.uk](http://www.fca.org.uk) or by contacting the *FCA* on 0800 111 6768.

The *FCA* requires *us* to categorise *our* clients. We will treat *you* as a retail client, as defined by the *FCA*. Retail clients benefit from the highest level of protection, are provided with information in a more straightforward way and have access to the Financial Ombudsman Service and Financial Services Compensation Scheme. If *you* fall outside of the *FCA* definition of a retail client, whilst we will continue to treat *you* as a retail client, including providing information in a more straightforward way, *you* may not be able to access the Financial Ombudsman Service and Financial Services Compensation Scheme. If *you* require further information regarding client categorisation please speak to *your adviser* or contact *us* directly.

## **2. The scheme**

- 2.1 The *scheme* is established by the *establisher* and is governed by the *rules*. The legally binding agreement between *you* and *us* referred to in section 1 imposes conditions and restrictions on the operation of the *scheme*. If there is any conflict between that agreement and the *rules*, the *rules* prevail. *You* can ask *us* for a copy of the *rules*.
- 2.2 We are responsible for operating and administering the *scheme*.
- 2.3 When an individual becomes a *member*, a *member fund* will be set up on their behalf. All contributions and transfer payments invested in the *scheme* on *your* behalf will be applied to *your member fund*.

## **3. Ownership**

The *scheme trustee* is the sole legal owner of all the assets relating to each *member fund*.

The *scheme administrator* pays the benefits from the *member fund* in accordance with the *rules* and the *terms and conditions*.

In relation to assets that are held in *your member fund*, we shall invest and/or appoint investment managers in accordance with (and only in accordance with) *your* instructions, subject to the conditions set out in sections 10 and 11.

## **4. Membership**

- 4.1 Anyone may apply to become a *member*.
- 4.2 A parent or legal guardian may apply for membership on behalf of their child under the age of 18. Until the child reaches the age of 18, we will act on the instructions of the parent or legal guardian in relation to the child's *member fund*. Once the child reaches the age of 18, they will have full authority to give instructions in relation to their *member fund*, provided that they accept these *terms and conditions*.
- 4.3 When the child reaches age 18, as a *member* who has then reached majority:
  - The *member* must either (i) confirm their agreement to these *terms and conditions* in a form acceptable to *us*, or (ii) instruct *us* to transfer out the value of the SIPP to another registered pension scheme or overseas pension scheme allowed by *HMRC rules*;
  - The *member* takes control of the SIPP and the *member* and the *adviser* (where appointed by the *member*) are responsible for giving *us* instructions in respect of the SIPP;
  - We will no longer accept instructions from the parent or legal guardian. The parent or legal guardian will be removed from the SIPP;
  - Until the *member* agrees to the terms and conditions, the SIPP will be restricted.

- We will treat the *member* as not having an *adviser* appointed, until they instruct *us* otherwise. The adviser previously appointed on the SIPP may request information on the SIPP following the *member's* 18th birthday, for a short period defined by *us*.
  - Any ongoing advice fees that are being facilitated from the *member's* SIPP will stop (subject to the *member's* instruction to continue these payments).
- 4.4 Any *eligible dependants, nominees or successors* in respect of whom an entitlement to benefits arises may participate in the *scheme* as *dependants, nominees or successors* by applying to take benefits in the form of *drawdown* (see section 21). We have the right to decline such an application where the *eligible dependant, nominee or successor* does not normally live in the UK and/or this would in, *our* opinion,
- 4.4.1 likely lead to an *unauthorised payment*, which attracts tax charges or
- 4.4.2 limit or restrict in any way *our* ability to administer the *scheme*.

Where we accept an application to take benefits in the form of *drawdown* in respect of a *dependant, nominee or successor* who is a child under the age of 18, section 4.3 applies but with references to "*member*" being read as references to the *dependant, nominee or successor*.

## 5. Communication

- 5.1 Any instructions from *you* to *us* must be in writing, via email, or by facsimile and be submitted directly to *us*. Instructions include, but are not limited to, notices, application forms, benefit options and nominations and directions in relation to investments.

Instructions are not effective until actually received by *us* at the address set out in section 1.

- 5.2 We will normally communicate with *you* in writing or electronically.
- 5.3 The exceptions to section 5.1 are:
- 5.3.1 where we agree that instructions in relation to the ongoing transactions by any investment manager should be submitted to that investment manager (see section 11) in accordance with the separate terms and conditions governing the operation of those services;
- 5.3.2 where we agree that instructions:
- (a) to place a buy, sell or switch transaction in relation to funds linked to any investment product held by *your member fund*; or
- (b) to trade assets and investments using any agreed share dealing facility,
- should be submitted to the provider of the investment product or share dealing facility in accordance with the separate terms and conditions governing that product or facility; or
- 5.3.3 where we give notice that instructions should be submitted to any other relevant third party.
- 5.4 *You* authorise *us* and the *scheme trustee*:
- 5.4.1 to rely on, and treat as fully authorised and binding on *you*, any decision or instruction which purports to have been given by *you* or *your adviser* without further enquiry by *us*; and
- 5.4.2 to accept such an agreement as genuine, without the need for further investigation as to the authority or identity of the person giving, or purporting to give, such an agreement provided the instructions have been received in good faith and without negligence.

## 6. Contributions

- 6.1 Contributions may be made by *members* and in respect of a *member* by another person (including his employer) if the contribution is paid on his behalf and he is aware of the payment. No contributions may be made in respect of *dependants, nominees or successors*.
- 6.2 *You* may arrange regular or one-off contributions to *your member fund*.
- 6.3 *Your* personal contributions qualify for tax relief if *you* meet the conditions set out in the *Finance Act*.
- 6.4 Contributions over the limit that are eligible for tax relief can be paid into *your member fund* provided *you* notify *us* at the time *you* make the payment that *you* are intending to make such contributions. We are under no obligation to notify *you* if *you* are likely to be affected by the limit set by *HMRC* for tax relief on contributions. If the contributions paid by *you* result in *you* exceeding the limit for tax relief, *you* may ask *us* to refund the excess contributions paid by *you* to *you*. The refund to *you* would be the lower of the excess contribution or the value of the part of *your member fund* attributable to that excess contribution. In addition,

HMRC will require *us* to repay the full amount of the basic rate tax relief (see section 6.11) which *we* had claimed on the excess contribution.

- 6.5 The *annual allowance* determines the total value of all contributions to all *your* tax-advantaged pension savings which can be paid by or in respect of *you*, without incurring a tax charge.
- 6.6 The amount of the *annual allowance* is set out in legislation and can change from time to time. The amount of the *annual allowance* that applies to *you* can be reduced or increased depending on the value of *your* total income, whether *you* have carried forward unused portions of *annual allowance* relating to the last three tax years and if *you* have accessed any benefits flexibly and therefore the *money purchase annual allowance* applies. *We* recommend that *you* consult an *adviser* if *you* are in any doubt.
- 6.7 If contributions are paid which lead to the *annual allowance* or the *money purchase annual allowance* under the *Finance Act* being exceeded, *you* will be responsible for paying the *annual allowance* tax charge arising. The excess contribution paid in these circumstances must remain in *your member fund* (invested until benefits are to be paid as set out in these *terms and conditions*).
- 6.8 Contributions can continue even after *you* take retirement benefits, but any contributions paid after *your* 75th birthday, do not currently qualify for tax relief.
- 6.9 *We* do not impose minimum contribution levels. However, *we* reserve the right to introduce a minimum and, if *we* do, *we* will alter these *terms and conditions* as described in section 29.1.
- 6.10 Contributions can be paid by:  
  
cash, cheque, standing order, BACS or direct credit. Contributions cannot be settled wholly or partially by appropriate assets rather than cash.
- 6.11 *We* will act as the collecting agent for all contributions and will pass monies, including basic rate tax relief on *member* contributions, to the *bank account*. *We* will claim basic rate tax relief from HMRC on any contributions made by *you* or on *your* behalf paid as a personal contribution, for investment in *your member fund* via the *bank account*, when HMRC pay the tax to *us*. Basic rate tax relief will only be applied to *your member fund* once HMRC pays the tax relief to *us*.
- 6.12 *You* may claim higher rate tax relief through *your* self-assessment tax return. Tax relief on personal contributions paid on behalf of a minor is attributable to the minor as opposed to the person who actually pays the contribution.

## 7. Transfer payments into the scheme

- 7.1 Subject to section 7.2, HMRC's requirements and *our* prior consent, *you* may transfer *your* benefits under another *registered pension scheme* to this *scheme*. It is also possible to transfer the value of an *income withdrawal fund* into the *scheme*. It is *your* responsibility to determine whether a transfer under this section 7.1 is in *your* best interests and *we* will not accept a transfer unless *you* have received appropriate financial advice.
- 7.2 Transfer payments may be arranged as a cash transfer, or by a transfer of assets, or a combination of both, from the other scheme. A transfer of assets is subject to:
  - 7.2.1 the assets being a permitted investment in accordance with 10.1;
  - 7.2.2 *our* prior consent;
  - 7.2.3 *us* having obtained a current open market valuation of the assets (the cost of which, if any, being met when *we* are asked for payment in accordance with section 16, irrespective of whether or not the transfer is actually completed);
  - 7.2.4 full ownership of the assets being passed to the *trustees*; and
  - 7.2.5 satisfying HMRC's requirements.
- 7.3 *We* do not impose a minimum on transfer values. However, *we* reserve the right to introduce a minimum and, if *we* do, *we* will alter these *terms and conditions* as described in section 29.1.

## 8. Transfer payments out of the scheme

- 8.1 *You* may request a transfer of the value of any benefits under *your member fund* to another *registered pension scheme* or overseas pension scheme allowed by HMRC rules. *You* would need to check that the proposed scheme is willing to accept the transfer.
- 8.2 If *you* are not transferring out *your* whole *member fund*, *you* must tell *us* which assets are to be sold or cashed in before *we* can arrange the transfer.

- 8.3 Costs may be incurred for cashing in assets and making the transfer out (for example, by the investment manager or product provider).
- 8.4 It may be possible to make a transfer payment to another pension arrangement 'in specie' i.e. the assets are not sold but, instead, are re-registered in the name of the trustee of the new pension scheme. With an 'in specie' transfer, costs may be incurred during the re-registration process.
- 8.5 With 'in specie' transfers, costs may also be incurred if we require a current open market valuation of the assets.
- 8.6 The costs (irrespective of whether or not the transfer out proceeds) will be met, in accordance with section 16, prior to any transfer taking place. Payment of a transfer value may be delayed if there is a delay in receiving payment.
- 8.7 Subject to the requirements of the *Finance Act* you may transfer the whole of *your income withdrawal fund* at any time to another *registered pension scheme* that is willing to accept it. *You* should get advice from an *adviser* before considering a transfer.

## 9. Bank account

- 9.1 Your bank account will either be an individual account or a notional account. You can ask us for details of which applies to you.

If you are a co-trustee of your SIPP, or if your account is held at Cater Allen, your bank account will be an individual bank account and sections 9.2 to 9.7 will apply.

Otherwise, your bank account will be a notional account and sections 9.8 to 9.18 will apply.

If you have a separate bank account for your investment in commercial property, this will either be an individual account or a notional account. You can ask us for details of which applies to you.

- 9.2 We will operate an interest-bearing bank account with a provider nominated by *us* which will be known as the *bank account* for the purposes of *your member fund*. Contributions and payments into *your member fund* and payments out of *your member fund* will be via the *bank account*, unless we agree otherwise.

*You* may ask *us* to open additional bank accounts, subject to *our* reasonable requirements, with other account providers that *you* choose for the purposes of *your member fund*.

Assets relating to *your member fund* in the *bank account* will be held in the name of the *scheme trustee*.

- 9.3 All monies available for investment will be held in the *bank account* unless and until we receive investment instructions from *you*, or on *your* behalf by *your* investment manager or *adviser*.

- 9.4 Our active management of customer cash means we can credit our customers with a competitive rate of interest. We retain some of what's earned so we can keep our charges low, as well as investing in our technology and propositions, and in providing higher service levels.

Our aim is to deliver excellent financial outcomes for our customers and ultimately help make their retirement more rewarding.

Details on our sharing policy are displayed on our website at [www.talbotmuir.co.uk/bank-interest-for-sipps-and-ssass/](http://www.talbotmuir.co.uk/bank-interest-for-sipps-and-ssass/) along with the actual rates applied to customer accounts, and the level of cash interest rates retained is shown on client illustrations.

- 9.5 Where the interest earned by the pooled bank accounts for all our customers is less than the interest paid by the banks to the scheme trustee across all such accounts the trustee has with them, we will keep the difference.

- 9.6 No ongoing bank charges are currently made on the *bank account* whilst it is in credit. However, individual transactions (for example, receipt of monies in foreign currencies or electronic transfer) may attract charges. Charges may apply in the future, which would be met in accordance with section 16. We will require *you* to maintain a suitable cleared balance in the *bank account* at any time to cover all payments due from or in respect of *your member fund*. These payments will include, but shall not be limited to:

- 9.5.1 any *drawdown* payments falling due which will cease or be delayed if there are insufficient cleared funds;

- 9.5.2 ongoing capital and interest repayments in connection with any borrowing; and

- 9.5.3 fees, charges or costs.

Overdrafts are not usually permitted on the *bank account* (or on any other account that we agree in connection with *your member fund*).

- 9.7 If there is an insufficient cleared balance in the *bank account* to comply with the requirements of section 9.5, we will realise (cash in) assets in order to provide the necessary funds. The procedure for realising assets is set out in section 17. We, and the *scheme trustee*, do not accept any liability whatsoever for any



loss or any tax charge that may be incurred due to insufficient cleared funds being available in the *bank account*.

- 9.8 Where an investment manager is appointed, cash may be held by the investment manager or its nominees, subject to section 11. Cash held in this way may attract interest. Details of the appropriate prevailing interest rates can be obtained directly from the investment manager upon request. For further details in relation to investment managers, please see section 11 and/or contact *us*.
- 9.9 On receipt, monies are deposited in a pooled bank account.
- We will notionally record the relevant amounts in your SIPP bank account records or in your property bank account records as appropriate. When we pay money out of the pooled bank account on your behalf, we will record this by debiting the relevant amount in your SIPP bank account records or your property bank account records as appropriate.
- 9.10 We may change the basis of interest and the interest rates applying to the pooled bank accounts (which will affect the amount creditable to your SIPP bank account records). Any change will reflect in our reasonable opinion a proportionate response to any change made by the bank to the basis or rates of interest paid by the bank to the scheme trustee.
- We will give you as much notice as reasonably possible before changing the basis of interest or decreasing the interest rate. This will generally be at least 30 days' notice.
- 9.11 For the effective operation of your SIPP:
- a. you are required to ensure that there is sufficient money in the pooled bank accounts (as recorded in your SIPP or property bank account records) to meet any expected single or regular payments (including our fees). If there is insufficient money notionally recorded in your SIPP bank account records or your property bank account records to make such payments, including payment of any benefits to you or payment of fees to your appointed agent, we may not make the payment;
  - b. you agree that we may instruct an investment manager to transfer monies held in a bank account operated by the investment manager to a pooled bank account to meet the liabilities of your SIPP; and
  - c. you agree that we may transfer monies credited to a pooled bank account (and recorded against your SIPP bank account records) into your property bank account records in order to cover any fees, charges or expenses.
- 9.12 If:
- a. you (or an investment manager) request us to transfer monies (other than regular transfers) to an investment manager, the amount to be transferred will be transferred from a pooled bank account to a central clearing account held by the trustee when we process your instructions;
  - b. you give us instructions to acquire an investment, the amount to be invested will be transferred from a pooled bank account to a central clearing account held by the trustee when we process your instruction;
  - c. we are required to pay expenses (including fees to an adviser authorised by you), the amount of the expenses will be transferred from a pooled bank account to a central clearing account held by the trustee when we process the payment.
  - d. we reclaim tax on contributions made by you, a single reclaim will be made in respect of all such contributions paid to the scheme and the resultant tax reclaim will be credited to a central clearing account held by the trustee pending allocation to your SIPP;
  - e. we deduct tax under PAYE from income payments made to you, that tax will be credited to a central clearing account held by the trustee pending payment to HMRC; or
  - f. we are required to account for VAT in respect of a property, the VAT payable to HMRC will be credited to a central clearing account held by the trustee pending payment to HMRC;
- We will retain any interest arising on any such central clearing account.
- 9.13 We will open pooled bank accounts with institutions that we have approved. These accounts will hold funds in sterling and will be with UK-authorized institutions legally able to accept deposits (as listed in the Financial Services Register) selected by us using documented due diligence processes. Details of the banks holding pooled bank accounts and property pooled bank accounts in respect of your SIPP are available from us on request.
- 9.14 Where we place money with a bank, we will exercise reasonable skill and care in selecting the bank's appointment but are not liable for the acts or omissions, insolvency or dissolution of the bank.
- 9.15 We will operate the pooled bank accounts on behalf of the trustee in accordance with the trust deed and rules and a mandate granted to us by the trustee in compliance with FCA rules. We will be the authorised signatory and have full authority over the pooled bank accounts.

Cash deposits from the pooled bank accounts may be placed in pooled deposit accounts for up to 12 months, which are unbreakable or have a defined notice period. Placing your cash deposits in these accounts does not in itself affect your ability to invest or withdraw funds from your SIPP. However, such amounts may not be immediately available for distribution in the event of default by us or of one of the banks or other financial institution with whom your cash is held.

- 9.16 In the event of a default by a bank holding monies in a pooled bank account or a pooled deposit account, your SIPP will share proportionately in any shortfall in the pooled bank account and property pooled bank account. We or you may be able to claim under the Financial Services Compensation Scheme.
- 9.17 Your SIPP can also open other deposit accounts if you wish, but our mandate over SIPP bank accounts will apply to these accounts and we must be able to receive regular statements. All payments into and out of the SIPP, such as contributions, benefit payments, investment purchases and sales must be made through the pooled bank account (and recorded in your SIPP bank account records) for administrative purposes. We may charge additional fees for operating other bank accounts.
- 9.18 We may not be able to open a property pooled bank account where funds are contributed from clients under other schemes we operate. We reserve the right to reject any investment application or property application where property pooled bank accounts cannot be opened at our sole discretion.

## 10. Investments

- 10.1 *You* are responsible for deciding the manner in which *your member fund* is invested and the suitability of *your* investments for *your* financial circumstances. We will not undertake full due diligence checks on the

investments *you* have selected. Any investment instruction must be submitted to *us* in accordance with section 5 and will be followed by *us* where the instructions meet *our* reasonable requirements. *We* will normally allow any investment on *our permitted investments list* and which *HMRC* rules allow without attracting any *unauthorised payment* tax charges. *You* can ask *us* for details of permitted investments.

The list of permitted investments may vary from time to time. In order to comply with regulatory rules certain restrictions, apply. In particular, the *scheme* may not (directly or indirectly) engage in investment transactions with:

- 10.1.1 *you* or a person connected with *you*, e.g. a family member or a business partner, or
- 10.1.2 a company or firm in which *you* or a member of *your* family has an interest

unless any transactions are made on an arm's length bargain terms basis i.e. on a basis consistent with a normal open market commercial transaction between two or more persons.

*You* are also responsible for ensuring that the investments *you* have chosen are included on, and remain included on, the *permitted investments list*, the latest version of which may be found at [www.talbotmuir.co.uk/forms](http://www.talbotmuir.co.uk/forms).

- 10.2 *We* have the right to decline to accept an investment into the *scheme*.
- 10.3 The purpose of a *registered pension scheme* must be the provision of retirement income or lump sums as specified in the *Finance Act*. The investment objectives of the *scheme* must have due regard to this.
- 10.4 Any investment instruction will only be carried out where there are sufficient cleared funds available to complete the transaction.
- 10.5 *We*, and any appointed third parties, have the right to decline to accept instructions, for example, where an instruction is received to purchase an asset which falls outside the range of permitted investments.
- 10.6 Talbot and Muir Limited will not give advice, nor accept any liability for the performance or choice of any investment in relation to the *scheme*.

## 11. Investments management

- 11.1 *You* may ask *us* to open an account (including a share dealing account or investment platform account) with an investment manager in respect of part or all of *your member fund*. In each case, it will be necessary for *you* to complete the relevant documentation provided by the investment manager and to agree to those terms and conditions. These terms will be formally entered into by the *trustees* and *us* with the investment manager. *You* are responsible for ensuring *you* understand the terms and conditions that apply to any investment account opened or investment manager appointed by *us* at your request.
- 11.2 An investment manager may be appointed to act:
  - 11.2.1 on an execution only basis, where *you* must give instructions for the purchase or sale of investments;
  - 11.2.2 on an advisory basis, where the investment manager may give advice on the purchase or sale of investments, but no investment may be purchased or sold without *your* agreement; or

- 11.2.3 on a discretionary basis, where the investment manager may manage investments in accordance with an investment strategy agreed with *you*.

Any investment acquired must meet the requirements set out in the *permitted investments list*. If any other investment is acquired, we may instruct the disposal of the investment and will not be responsible for any loss arising as a consequence.

Please note that an investment manager may have rights to compensation from or to take security over some or all of the assets of the *scheme* held by them in certain circumstances

- 11.3 We will not accept any liability for the performance or choice of any investment manager.
- 11.4 At *your* request we will release monies to the appointed investment manager once the investment manager has opened an account relating to *your member fund*. The costs arising from the investment manager's commissions, fees and disbursements relating to *your member fund* will be borne by the monies and investments under the control of the investment manager relating to *your member fund*.
- 11.5 Any investment manager to be appointed will be able to provide full details of their charges.

## 12. Stock custody

- 12.1 Permitted investments may be registered in the name of nominee companies used by any investment manager appointed in accordance with section 11 or, subject to *our* agreement, such other third party provider appointed by *you*. We do not and will not provide custody services in respect of *your* investments.
- 12.2 The costs arising from fees and charges of any nominee or custodian relating to stock registration or custody and settlement shall be charged to the *scheme* in accordance with section 16.
- 12.3 In relation to any investment held in accordance with section 11 we are not responsible for providing any advice regarding the assets held in these arrangements. *You* should ensure that *your* investment manager or nominee keeps *you* fully updated on any matters which will affect *your* portfolio, including but not exclusive corporate actions and voting rights.

## 13. Commercial property

- 13.1 All *commercial property* relating to *your member fund* will be held and any associated borrowing will be made in the name of the *trustees*.
- 13.2 When purchasing or selling any *commercial property*, the *trustees* will jointly instruct or appoint only approved third parties. This will include surveyors, environmental specialists, solicitors, insurance consultants, property administrators and property managers.
- 13.3 The fees arising from the appointed third parties relating to *your member fund*, together with all associated costs and expenses arising from the ongoing administration and compliance with relevant legislation in respect of *commercial property*, including litigation, relating to *your member fund* will be charged to *your member fund* and met in accordance with section 16. We will not agree to pay for fees, costs or expenses incurred in respect of *commercial property* relating to *your member fund* where we have not agreed such fees, costs or expenses in advance.
- 13.4 We have the right to instruct the *trustees* to sell a *commercial property* at any time if a particular risk or liability (statutory or otherwise) occurs that affects the *commercial property* or the land surrounding it. For example, if legislation changes so that the property is no longer treated by *HMRC* rules as *commercial property* or the property is subject to revised environmental requirements.
- 13.5 You can ask us for further information about investment in *commercial property*.
- 13.6 Subject to section 17.1.2, acquisition and disposal of *commercial property* will require *your* instructions as set out in section 5.
- 13.7 Upon completion of our acquisition of a property (or of our partial interest in a property) to be held on behalf of more than one client, you agree to complete a group investment agreement with all syndicated members confirming the share (and where appropriate, the share of any loan) attributed to each client's pension.
- 13.8 You will nominate a lead member as a point of contact for us. You agree that any decision made by the lead member will be binding on you and that any correspondence we send to the lead member shall be considered as having been sent to you.
- 13.9 The lead member can be changed by all syndicated members giving written confirmation to us. Where we consider that the lead member is not fulfilling this role or is unable to fulfil this role, we will correspond with all syndicated members and a replacement lead member must be appointed. Where agreement between the syndicated members cannot be reached, we reserve the right to dispose of the property in accordance with paragraphs 13.10 to 13.12.



- 13.10 We may dispose of the property or require the joint title holders to facilitate disposal of the property where:
- 13.10.1 the property;
    - i. becomes taxable property;
    - ii. does not comply with relevant regulation or legislation; or
    - iii. presents undue legal, commercial, environmental or reputational risk to us or your SIPP as determined by us at our sole discretion, which cannot be mitigated on what we consider to be reasonable terms;
  - 13.10.2 we become aware that information previously provided is materially incorrect or misleading;
  - 13.10.3 your SIPP (or a syndicated member's pension) has costs and liabilities which we are entitled to charge to your SIPP will be deducted from a pooled bank account.
  - 13.10.4 a client or joint title holder repeatedly fails to co-operate or displays unreasonable behaviour including but not limited to abuse, offence, threatening language or dishonesty;
  - 13.10.5 you fail to comply with these terms, or a syndicated member fails to comply with the terms of their pension;
  - 13.10.6 we deem there is to be irreconcilable differences between the syndicated members which in our reasonable opinion, makes the ongoing administration of your property investment unworkable.
- 13.11 Where we decide to dispose of the property we will:
- 13.11.1 give all clients 30 days' written notice;
  - 13.11.2 instruct third party professionals of our choice; and
  - 13.11.3 offer the property for sale on the open market or place the property in the next available auction of our choice, at our sole discretion.
- 13.12 Where we are unable to dispose of the property at a price previously advised by a valuer, auctioneer, or requested by the lead member, we will sell the property at the best available price.
- 13.13 If a tenant is in default of its obligation to pay amounts due under the tenancy agreement, your property investment will bear its share of the costs associated with pursuing the tenant (where we wholly own the property or where we hold a partial interest in the property) for the arrears and where appropriate, bringing the tenancy agreement to an end. We will always pursue arrears in respect of a tenant who is a connected party unless advice from an appropriate third party professional is received which allows us to write off all or part of the arrears.\*
- \* If there are rent arrears or the property is let to a connected party and the rent is not set at market value or pursued commercially, tax charges may be levied by HMRC against you personally and against your SIPP. These charges will also apply to any rent paid to you personally and not paid into your SIPP.*

#### 14. Borrowing

- 14.1 The maximum amount that the *scheme* can borrow is set by HMRC and is currently limited to 50% of the 'net market value' of *your member fund* immediately before the borrowing takes place.
- 'Net market value' has the meaning given by section 278 of the *Finance Act* and any subsequent legislation. The value of any asset being purchased using the borrowing must therefore not be taken into account in calculating the borrowing limit unless, exceptionally, the asset was already held in *your member fund* before the borrowing takes place, e.g. a re-mortgage. We will take into account any existing borrowing when calculating the limits.
- 14.2 Subject to section 14.1, any borrowing may be further restricted in accordance with the terms and conditions offered by the lender. For example, a lender may not be willing to lend the maximum otherwise permitted in respect of minors or where there are benefits in payment.
- 14.3 All borrowing must be arranged in the name of the *trustees* jointly.
- 14.4 Neither we nor the *scheme trustee* takes responsibility for finding a willing third party lender, but we may be able to facilitate a third party lender that could be used.
- 14.5 When we confirm that the borrowing is acceptable, we will instruct the *trustees* to sign the lender's loan documentation on behalf of the *scheme*.
- 14.6 Certain lenders may require the *scheme* to maintain a suitable cleared balance in the *bank account* (or in another account relating to *your member fund*) to cover ongoing capital and interest repayments. This will vary from lender to lender. If there are insufficient cleared funds to cover ongoing capital and interest repayments, we will realise (cash in) assets in order to provide the necessary funds. The procedure for realising assets is set out in section 17.

- 14.7 All borrowing must be repaid in accordance with the terms and conditions of the lender's loan documentation (for example on completion of the sale of a *commercial property*).
- 14.8 It will be necessary to review the level of borrowing available if *your member fund* is to be partly or fully encashed as a consequence of *you*:
- 14.8.1 transferring out;
  - 14.8.2 becoming subject to a Pension Sharing Order (on a divorce); or
  - 14.8.3 dying.

In certain circumstances, this may require the borrowing to be wholly or partially repaid.

- 14.9 We will comply with the terms and conditions offered by the lender.

## **15. Statements**

- 15.1 *You* must agree with any investment manager appointed in accordance with section 11 how often investment updates are issued, including transaction details and a portfolio valuation during the period.
- 15.2 We will arrange to send *you* a yearly statement covering investments relating to *your member fund*. This will give details of all investments relating to *your member fund* although (due to issues of timing and costs in obtaining valuations) this may not be a current valuation. If *you* ask *us* for a current valuation, the cost (if any) of obtaining this will be charged in accordance with section 16. If *you* require an additional summary of investments at any time, *we* will apply an additional charge for each and every statement. This additional charge shall be met in accordance with section 16. Please refer to the *schedule of fees and services* for more details.
- 15.3 If *you* have utilised *drawdown*, *we* will give *you* separate details of the income payments made from *your member fund*.

## **16. Charges**

### **16.1 Amount of charges**

The *schedule of fees and services* is available via [www.talbotmuir.co.uk/forms](http://www.talbotmuir.co.uk/forms) or on request and sets out the charges that may become payable to *us* and the annual increase that is applied to *our* charges. The charges that will actually become payable will depend on the investments *you* select, the benefits *you* take and any administrative or other requests *you* make. Additional services outside *our* normal administration activities will be charged on a 'time-cost' basis (hourly rates for the service).

We may review and amend *our schedule of fees and services* as explained in section 29.

All charges quoted are exclusive of any VAT, stamp duty and other applicable taxes and/or duties, which, if payable, are in addition.

### **16.2 Payment of charges and other sums due**

All charges and other sums due in respect of *your member fund* or from *you* personally, including under these *terms and conditions* must be paid out of funds held in the *bank account*, or from any other account that *we* agree. *You* are responsible for ensuring that there are sufficient funds available in good time to pay charges or any other sums due. *We* will advise *you* if it has not been possible to pay any amounts due. If there is not enough money in any *bank account* in respect of *your member fund* to meet charges or other amounts as they fall due, *we* may cover the shortfall by arranging the sale of investments held within *your member fund*. If there is more than one type of investment in *your member fund*, *we* will normally follow the process set out in section 17.1.

Important: If any shortfall remains after the sale of all investments held within *your member fund*, *you* will be personally responsible for paying the outstanding charges or other sums due and *you* will personally indemnify *us*, subject to section 32.3, in respect of all or any costs, claims, expenses, tax charges, demands and losses that may arise in respect of *your member fund*.

## **17. Realisation of assets**

- 17.1 Where there are insufficient cleared funds in any *bank account* relating to *your member fund* to meet payments that are due to or from *your member fund*, *we* will carry out the following procedure:
- 17.1.1 *we* will ask *you* to provide additional contributions (where appropriate) or instructions to sell assets (or a combination of both) to provide sufficient funds. The instructions to sell assets must specify the assets *we* should sell, and the order in which *we* should sell them;

- 17.1.2 if we do not receive additional contributions and/or instructions to sell assets that would together provide sufficient cleared funds within one month (or such longer period as we allow) of our request, we reserve the right to arrange for assets to be sold in such order as we determine:

By joining the *scheme*, or applying for *dependant's*, *nominee's* or *successor's drawdown*, you agree and accept that in these circumstances you authorise us to sell assets as set out above.

- 17.2 We may make a charge to the *scheme* for co-ordinating the sale of assets under section 17.1.2 and will deduct this charge from *your member fund*. Please refer to the *schedule of fees and services* for the charges that will apply. This is in addition to other parties' costs incurred in valuing and selling the assets.
- 17.3 We will write to you as soon as practicable to confirm the intention to sell assets and the order in which we will do this. We will also write to confirm details after the assets have been sold and the amount of any charge made.
- 17.4 In some circumstances, it may be necessary to sell or cash in assets at whatever price is available at the time. This may result in the cashing in of assets when the relevant market is depressed. Assets may have to be cashed in:
- 17.4.1 to provide a lump sum death benefit (see section 23 for details of the time limits on payment of lump sum death benefits);
  - 17.4.2 to facilitate other benefit payments; or
  - 17.4.3 on implementing the *scheme* wind up provisions (as described in section 30).
- 17.5 As an alternative to cashing in assets in accordance with section 17.4, it may be possible to settle the transaction by a transfer of assets.
- 17.6 Cashing in any investment will be governed by the terms and conditions of that investment. Such terms and conditions may include a right for the investment provider to delay the cashing in.
- 17.7 In certain circumstances, as are notified to you from time to time, for example where any investment is not on or stops being on the *permitted investments list*, we may sell any investments in your *SIPP*. We will tell you if an investment is sold and the reasons for the sale. We are not liable or responsible for any loss or missed profit if we sell an investment under this section.

## 18. Timely execution

- 18.1 We will transact all investments as soon as is reasonably practicable after we receive complete and unambiguous instructions. You can obtain details of what is 'reasonably practicable' for a particular investment from your adviser. By transact we mean that we will have completed our part in the buying or selling process for that investment, such as filling in an application form or sending money to an appointed investment manager. As long as we have acted as soon as is reasonably practicable, we are not liable or responsible for any loss or missed profit between the time that we received the instruction and the time that it was completed.
- 18.2 Where it has not been possible to sell an investment in your *SIPP* within such a reasonable period as we determine and where permitted by the *FCA* and *HMRC*, then we may require you to purchase it at the higher of its current market value or £1.00. The charges described in the *schedule of fees and services* will apply.

## 19. MEMBER'S RETIREMENT

**This section applies to Member's retirement benefit only**

- 19.1 As part of the process to join the *scheme*, we ask you to choose a retirement date – the date when you intend to take retirement benefits.

This date must be on or after your 55th birthday (on or after your 57<sup>th</sup> birthday from 6 April 2028), or such other date as may be your *minimum pension age*. If you do not choose a retirement date, we will assume your retirement date is your 75<sup>th</sup> birthday.

You may change your chosen retirement date (within the range allowed by *HMRC* rules), but if you do so you must inform us. You do not need to retire to take benefits.

You may be able to access benefits before your *minimum pension age*, if you are in ill health. If you are in ill health, please ask us for details.

Contributions can continue to your *member fund* even after you take retirement benefits in terms of sections 20 and 21.

- 19.2 Before you can take retirement benefits, there must be sufficient cleared money in the *bank account* relating to your *member fund*. To achieve this, assets may need to be realised (cashed in or sold) under the procedure set out in section 17. Some assets (for example, property) may take longer to realise than others.

This could delay benefit payment. Alternatively, there is the option to make payment by way of an in-specie transfer of an asset.

- 19.3 The value of the *member fund* being used to provide tax free lump sum benefits must be tested against an allowance called the Lump Sum Allowance, set by *HMRC*. Any benefits taken above the Lump Sum Allowance will be subject to tax under PAYE at your marginal rate. *We* will deduct the tax charge due from the retirement benefits being taken and pass this to *HMRC*. For further details, please contact *us*.
- 19.4 The options for taking benefits from *your member fund* are:
- 19.4.1 A tax-free lump sum of up to 25% (in some circumstances it may be possible to take more than 25% tax free).
  - 19.4.2 With the balance of *your member fund* (after the tax-free lump sum) *you* may:
    - (a) buy a *lifetime annuity* – see section 20, or subject to *our* agreement;
    - (b) choose *drawdown* - see section 21.

## 20. Lifetime annuity option

A *lifetime annuity* pays an income for the rest of an individual's life. There are different ways in which a *lifetime annuity* can be paid. Please ask *your adviser* for more details if *you* are interested in this option.

The *rules* allow *you* to purchase a *lifetime annuity* with an insurance company using the value of the whole or part of *your member fund*. This is known as the open market option.

The *lifetime annuity* option is also available where income has been taken initially on the *drawdown* basis (see section 21).

*We* require the appropriate documentation to be completed before a *lifetime annuity* is purchased. *You* must agree the relevant amount to be transferred to the pension company to buy the *lifetime annuity* contract, and that *you* have no further interest in the *member fund* in respect of the amount used to buy the *lifetime annuity*.

## 21. Drawdown

- 21.1 *You* may draw an income as *drawdown* from *your member fund* instead of buying a *lifetime annuity*. *You* can start *drawdown* at any time from *your minimum pension age* (or possibly earlier if *you* are in ill-health).
- 21.2 *You* may choose for *drawdown* income to be paid on a monthly, quarterly, half-yearly or yearly basis. *We* will require *you* to complete, and return to *us*, certain paperwork (which *we* will supply) before *you* can start *drawdown*.
- 21.3 Unless otherwise agreed between *you* and *us*, *you* may choose to take any level of income which may be permitted by the *Finance Act* from time to time. After taking a tax-free lump sum, *you* can choose not to take any income. *You* may also increase, reduce and/or ask *us* for an extra one-off *drawdown*, within any relevant limits.

## 22. Benefits following a member's death

*We* may pay death benefits from *your member fund* in accordance with the *rules* of the *scheme*. These may be paid as a lump sum or as pension income, or as a combination of these options. *We* will decide who should receive benefits and how much from the list of beneficiaries described in the *rules*. *You* can help *us* make this decision by giving *us* the names of the *nominees* to whom *you* would like *us* to pay benefits.

## 23. Lump sum death benefits

- 23.1 *We* may pay a lump sum from *your member fund* in accordance with the *rules* of the *scheme*. *We* will decide who should receive a lump sum, and how much, from the list of beneficiaries described in the *rules*. *You* can help *us* make this decision by giving *us* the names of the *nominees* to whom *you* would like *us* to pay the lump sum death benefit. These can include trustees of a trust. *We* are not obliged to follow *your* wishes. It may be possible for the recipient of a lump sum death benefit to request it to be paid as a pension instead.
- 23.2 Where *you* the *member* dies before age 75 any payment out of an uncrystallised or crystallised fund in accordance with this section must be paid within two years of the date *we* first received notification of *your* death, or the date *we* could have first reasonably been expected to have known if earlier. If payment is not made within the two year period, or is higher than the *Lump Sum and Death Benefit Allowance* as set at the time by *HMRC*, it will be taxed at the recipient's marginal rate.

## 24. Dependant's or nominee's pension

- 24.1 Where *your eligible dependant or nominee* has confirmed to *us* that any part of *your member fund* should be allocated to provide pension income to them, each specified *eligible dependant or nominee* must decide whether the part of the *member fund* allocated to them should be used to:

- 24.1.1 buy a *lifetime annuity* in their name (see section 20);
- 24.1.2 apply to take *drawdown* (see section 21).

If the eligible dependant or nominee applies for drawdown, the eligible dependant, or nominee must agree to the terms and conditions.

- 24.2 If any *eligible dependant or nominee* fails to decide which option should be used for pension income within two years of the date *we* first received notification of *your* death, or the date *we* could have first reasonably been expected to have known if earlier, *we* may instigate *drawdown* for that person, from a pension provider that *we* choose.

## 25. Benefits following death of dependant or nominee

- 25.1 If a *dependant or nominee* dies while taking income through *drawdown*, the *dependant's or nominee's income withdrawal fund* may be paid as follows:

- 25.1.1 applied to provide *drawdown* for a *successor* nominated by the *dependant or nominee* pursuant to the *Finance Act*, subject to any tax that may be due;
- 25.1.2 paid as a lump sum, after deduction of any tax charge in accordance with section 27; or
- 25.1.3 paid as a lump sum to any charity or charities that the *dependant or nominee* specifies to *us*.

## 26. Benefits following death of a successor

- 26.1 If a *successor* dies while taking income through *drawdown*, the *successor's income withdrawal fund* may be paid as follows:

- 26.1.1 applied to provide *drawdown* for a *successor* nominated by the *successor* pursuant to the *Finance Act*, subject to any tax that may be due;
- 26.1.2 paid as a lump sum, after deduction of any tax charge in accordance with section 27; or
- 26.1.3 paid as a lump sum to any charity or charities that the *successor* specifies to *us*.

## 27. Taxation of payments

- 27.1 If *you* are receiving income payments from the *scheme*, the income *you* receive will be taxed under the Pay As You Earn (PAYE) system. *We* are only able to use the information provided to *us* at the outset and will contact *HMRC* to obtain the correct tax code, where *we* have not been provided with a valid P45 for the tax year. This may result in too much tax being collected and *you* may have to reclaim it directly from *HMRC*.
- 27.2 If *you* are receiving income payments from the *scheme*, *we* will provide *you* with a P60 at the end of each tax year showing the gross income paid, tax code used and details of any tax deducted.

## 28. Complaints and compensation

Should *you* wish to register a complaint in relation to the operation of the *scheme*, *you* should do this verbally or in writing, addressed to *us*. *We* have the right to telephone *you*, or someone else nominated by *you*, to discuss any administrative aspects without having been expressly invited by *you* to do so.

If *you* are not satisfied with any aspect of the service that *you* have received from *us*, *we* have a formal complaints procedure, a copy of which is available on request.

If *you* are not happy with *our* response to *your* complaint under *our* formal complaints policy, *you* may have the right to refer it to the Pensions Ombudsman (PO') or the Financial Ombudsman Service (FOS').

FOS and PO are both independent statutory bodies that investigate and adjudicate on disputes between pension *schemes* and *members*, but only after *you* have complained to *us* and tried to resolve the dispute using *our* complaints procedure. *We* will tell *you* about any ombudsman referral rights *you* may have.

### FOS contact details:

The Financial Ombudsman Service Exchange Tower London E14 9SR Telephone: 0800 0234567



**PO contact details:**

The Office of the Pensions Ombudsman 10 South Colonnade, Canary Wharf, E14 4PU Telephone: 0800 917 4487

**Compensation**

The Financial Services Compensation Scheme (FSCS) is a *scheme* that provides limited compensation for customers who might otherwise lose out if a company regulated in the UK by the Financial Conduct Authority is unable to pay claims against it.

Investments in *your member fund* may be covered by the FSCS.

**FSCS contact details:**

Financial Services Compensation Scheme 10th Floor Beaufort House, 15 St Botolph Street London EC3A 7QU Telephone: 0800 678 1100

[www.fscs.org.uk](http://www.fscs.org.uk)

Please ask *us* if *you* have any questions about the FSCS or the protection it provides.

**MoneyHelper**

MoneyHelper is an independent non-profit organisation providing free information and guidance on pensions to help pension scheme members who require advice, have a problem, complaint or dispute with their pension scheme.

**MoneyHelper contact details:**

<https://www.moneyhelper.org.uk/en/contact-us/pensions-guidance> Telephone: 0800 011 3797

**29. Variations to the terms and conditions**

- 29.1 We reserve the right to amend or supplement the *terms and conditions* from time to time on giving 30 days' written notice (or such other period allowed or required by law) to *you*. We will send such written notice to the last address *you* gave *us*. The changes notified in this way will be effective from the date stated in the written notice.
- 29.2 During the notice period, if *you* are unhappy with the proposed amendment or supplementary terms and conditions that *we* provide, *we* will not increase the transfer out fees and charges and *you* will be free to transfer *your member fund* to another *registered pension scheme* (subject to the existing transfer out fees and charges). For the avoidance of doubt, any fees and charges involved in cashing in or selling assets will be at the rates applicable at the time of realisation and/or encashment, as appropriate.
- 29.2.1 We will only alter the *terms and conditions* for the following valid reasons:
- 29.2.2 relevant changes in pensions, tax or other relevant UK or European case law or legislation;
- 29.2.3 relevant changes in the reporting requirements, regulatory regime, relevant industry guidance and codes of practice (including recommendations or decisions by the *FCA*, the Financial Services Compensation Scheme, the Financial Ombudsman Service or the Pensions Ombudsman);
- 29.2.4 changes in how the London Stock Exchange or other different investment markets may work which may impact on the *scheme*;
- 29.2.5 changes in investment/share dealing or administration which may impact on the *scheme*;
- 29.2.6 to correct manifest errors or other issues outside *our* control and avoid cross-subsidy between *member funds* where the charges for any service is, in *our* opinion, no longer reasonable;
- 29.2.7 changes in ownership of *our* business or how it operates;
- 29.2.8 changes in *our* services;
- 29.2.9 changes to the services provided by third parties appointed under the *scheme*;
- 29.2.10 appointment by *us* of alternative third parties to provide services under the *scheme*;
- 29.2.11 any other reasonable issues outside *our* control.

**30. Winding up of the scheme**

- 30.1 The *terms and conditions* shall continue until *your member fund* has been extinguished by the payment of a transfer value to another *registered pension scheme* or the provision of pension/death benefits outside of the *scheme* or the *scheme* is wound up in accordance with the *rules*.

- 30.2 On wind up, we will apply the assets of *your member fund* as set out in the *rules*.
- 30.3 On wind up, no fees or charges already paid shall be refunded and those due shall remain so and will include any charges associated with undertaking any transaction necessary to wind up the *scheme*. On wind up, the obligations of payment of charges in section 16 and the provisions in section 31 shall continue in full.
- 30.4 Wind up will be without prejudice to the completion of transactions already initiated. The *trustees* are authorised to continue to operate the *bank account* and any other accounts relating to *your member fund* to *our* order and direction for the purposes of receiving monies, paying benefits and paying any expenses or charges due to *us*, the *establisher*, the *scheme trustee* or other parties.

### 31. Additional information

- 31.1 We undertake not to disclose personal information coming into *our* possession at any time during the life of the *scheme*, except where expressly authorised to do so, or where required to do so by law.
- 31.2 The tax reliefs referred to in the *terms and conditions* are those available under current legislation, which may change. The value of the tax reliefs depend on individual circumstances.
- 31.3 Notwithstanding anything to the contrary in the *terms and conditions*, only those options described in the *terms and conditions* will be made available under the *scheme* unless we notify *you* in writing to the contrary.
- 31.4 The *establisher* may decide to change the provisions of the *scheme's rules* to meet with any changes to law or regulation affecting the *scheme*.
- 31.5 Any notice we serve in relation to the *scheme* will be sent to *your* last known address for correspondence according to *our* records. Any such notice sent by post will be deemed to have been received by *you* within three working days.
- 31.6 *You* need to tell *us* as soon as *you* move to another address.
- 31.7 We have the right to delay calculation of any amount due under the *scheme* until we have received satisfactory proof of ownership. Similarly, the exercise of rights conferred by the *scheme* and payment of any benefit is subject to the satisfactory proof of ownership.
- 31.8 By agreeing to these *terms and conditions*, *you* agree that the law of England and Wales applies to the *scheme*.
- 31.9 Subject to 31.10, nothing in the *terms and conditions* expressly or impliedly confers any right on any third party to enforce any of its provisions under the Contracts (Rights of Third Parties) Act 1999. For the purpose of this section, a third party is any party which is not *us*, the *establisher* or the *scheme trustee*.
- 31.10 We, the *scheme trustee* and *you* can enforce the terms and conditions.
- 31.11 These *terms and conditions* will only apply provided they are not held by a relevant court or decided by the *FCA* to be unfair contract terms or reasonably considered by *us* to be unfair contract terms. If a term is held, viewed or considered to be unfair it will, as far as possible, still apply but without any part of it which could cause it to be held, viewed or considered unfair.
- 31.12 For the purposes of section 17 only, where *you* are unable to act due to serious ill health, physical or mental incapacity, we may at *our* sole discretion require medical advice to that effect (the cost of which will be met from *your member fund*). Subject to such medical advice, we may accept the directions of any legally authorised party acting on *your* behalf. We, and the *scheme trustee* will not be liable for any or all losses, costs, actions, proceedings, claims and demands which may be incurred by or brought or made against any or all of *us* or them arising directly or indirectly from *us* or them having acted in good faith (as described in this section).

### 32. Liability and indemnity

- 32.1 By accepting the *terms and conditions*, *you* waive any and all claims or rights of action that *you* may otherwise have apart from claims and rights set out in these *terms and conditions*. This waiver extends to claims and rights of action at any time against any previous, current or future officers, employees, agents and sub-contractors of *ours*, or of any company within *our* group of companies, regarding any acts or omissions of such officers, employees, agents and sub-contractors in relation to *your member fund*.
- 32.2 To the extent allowed by law and *FCA* rules, we do not accept liability:
  - 32.2.1 for any or all losses, costs, actions, proceedings, claims and demands which may be incurred by or brought or made against *us* arising directly or indirectly from *us* having acted in good faith pursuant to any purported instruction relating to benefit options or nominations and any purported investment directions;

- 32.2.2 to *you* or any other person entitled to benefit under the *scheme* for any loss that may be incurred as a result of any error by *you* as a direct result of *our* negligence, wilful default or fraud;
- 32.2.3 for any instruction or investment direction sent by *you*, or *your* representatives or agents, but not received by *us*;
- 32.2.4 for any failure or delay in implementing any instruction or investment direction which is caused by circumstances beyond *our* reasonable control, including but not limited to acts of God, fires, strikes, terrorism, power failures, intervention by exchanges or regulators, court orders, failure or error of any equipment, telecommunications, intermediary, exchange, counterparty product provider or bank; or
- 32.2.5 for default or any losses whatsoever caused by any third parties, *nominees*, other custodians, banks or authorised institutions which hold any assets including, but not limited to, insurance company unit-linked funds, stocks and shares, unit trusts, Open-Ended Investment Companies (OEICs) and investment trust companies and cash for the purpose of *your member fund*.
- 32.3 In accepting the *terms and conditions*, *you* agree that *you* will be responsible to *us* for all reasonable costs, claims, expenses, tax charges, demands and losses whatsoever that *we* may suffer or incur in performing *our* duties under the *terms and conditions* or carrying out *our* lawful duties and responsibilities in relation to *you* and *your member fund*. *You* will not, however, be responsible for any costs, claims, expenses, tax charges, demands and losses resulting directly from any negligence, wilful default or fraud committed by *us* or *our* employees

### 33. Glossary

The following words and expressions, which appear in *italics*, have the meanings as set out below:

**adviser** means a financial adviser who is authorised and regulated by the *FCA* and is appointed by *you* to receive communications in respect of *your SIPP* and may include giving instructions on *your* behalf on all matters concerning *your SIPP* including buying and selling investments.

**annual allowance** means the annual allowance under section 228 of the *Finance Act*;

**bank account** means the bank account described in section 9. This may either be an individual bank account or a notional account. You can ask us for details of which one applies to you.

An individual bank account is an account which holds monies in respect of your SIPP only.

A notional account comprises monies held in one or more pooled bank accounts, as scribed in section 9.8 to 9.18. The pooled bank accounts are accounts opened with a bank or other approved credit institution(s) as we may from time to time decide. They are operated by the scheme trustee and hold monies in respect of your SIPP and other members of the scheme.

**commercial property** means any land or building that is zoned, designed or intended for use by businesses such as offices, retail, leisure and industrial developments and such other property as may be included on the *permitted investments list* from time to time but not 'residential property' for the purposes of the taxable property provisions as defined in paragraphs 7 to 10 of Schedule 29A of the *Finance Act*.

**dependant** means:

- an *eligible dependant* who has applied to take benefits, and has been accepted under section 4.3 (Membership) to receive benefits in the form of *drawdown*; or
- a person who has become entitled to *drawdown* on the death of a *member* under another *registered pension scheme* and who transfers that entitlement to the *scheme* in accordance with section 7.1

and has not subsequently died or left the *scheme*.

**drawdown** means income withdrawals direct from *your member fund*. Please see section 21 for further details.

**eligible dependant** means, in relation to a *member*, a person falling within any of the following categories at the date of their death:

- the *member's* wife, husband or civil partner;
- any child of the *member* who has not reached the age of 23 (any pension to a child will cease on the child's 23rd birthday unless the child is also dependent or mutually dependent on the *member* because of physical or mental impairment);
- any child of the *member* who has reached the age of 23 and in *our* opinion is dependent on the *member* because of physical or mental impairment; or

- any other individual who in *our* opinion is financially dependent on the *member*, or who is in a mutually dependent financial relationship with the *member* or is dependent on the *member* because of physical or mental impairment.

**establisher** means Talbot and Muir Limited or any successor appointed for the time being in accordance with the *rules*.

**FCA** means the Financial Conduct Authority.

**Finance Act** means the Finance Act 2004 as amended from time to time and any subsequent relevant Finance Acts.

**HMRC** means His Majesty's Revenue & Customs.

**income withdrawal fund** means any part of a *member fund* which is designated as available for the provision of *drawdown*.

**lifetime annuity** means an annuity contract purchased from an insurance company, which provides an income for life.

**Lump Sum and Death Benefit Allowance** means the maximum amount available to draw tax free lump sums from during both the members life and designation of their death benefits.

**member** means an individual who has successfully applied for membership of the *scheme*, as described in section 4.

**member fund** means the fund described at section 2.3.

**minimum pension age** means normal minimum pension age under the *Finance Act*, or such other earlier age registered for protection in relation to a specific *member* with *HMRC*.

**money purchase annual allowance** means the reduced limits imposed in relation to the *annual allowance* under section 227ZA of the *Finance Act* applicable when benefits are first taken either from a flexi-access drawdown fund, or as an *uncrystallised fund pension lump sum*.

**nominee** means an individual who is nominated by *you* or *us* and who is not an *eligible dependant*.

**permitted investments list** means the current list of investments permitted (at *our* sole discretion) by *us* and compatible with the *scheme's* continued status as a *registered pension scheme*, as published by *us* from time to time at [www.talbotmuir.co.uk/forms](http://www.talbotmuir.co.uk/forms).

**pooled bank account** means an account with a bank opened by the trustee that holds monies in respect of your SIPP and other members of the scheme.

**pooled deposit account** means an account with a bank or other financial institution that we choose, and that holds aggregated cash deposits from the pooled bank accounts.

**registered pension scheme** means a pension scheme registered under Part 4 of the *Finance Act*.

**rules** means the trust deed and rules that established and govern the *scheme*, as amended from time to time.

**schedule of fees and services** means the most recent schedule as published by *us* from time to time at [www.talbotmuir.co.uk/forms](http://www.talbotmuir.co.uk/forms), setting out the fees for services provided to *you* under the *scheme* as we may at *our* discretion amend or alter from time to time.

**scheme** means The Talbot and Muir 2016 SIPP Scheme governed by the *rules*.

**scheme administrator** means Talbot and Muir Limited or any successor appointed for the time being in accordance with the *rules*.

**scheme trustee** means TM Trustees Limited or any successor appointed as the scheme trustee in accordance with the *rules*.

**successor** means an individual who is nominated by your dependant, nominee, successor or by *us*.

**terms and conditions** means these terms and conditions as amended from time to time.

**trustees** mean, jointly, the *scheme trustee*, any *member trustee* and any other person who may be appointed as a trustee from time to time.

**unauthorised payment** means an unauthorised payment (as defined in section 160(5) of the *Finance Act*), which attracts tax charges.

**uncrystallised fund** means, in relation to a *member* only, any part of *your member fund* that has not been applied towards the provision of any benefit under the *scheme*.

**uncrystallised fund pension lump sum** has the meaning given in the Finance Act and means a lump sum paid from your uncrystallised fund.

**we** and **us** means the *scheme administrator* and *our* will be construed accordingly.

**you** means the person who is applying for membership of, or has successfully applied for membership of, the *scheme* and *your* will be construed accordingly.

**your SIPP** means the self-invested personal pension product issued under the *scheme*.

We are able to provide literature in alternative formats. For a Braille, large print, audio or E-text version of this document call us on 0115 841 5000 (or via the Typetalk service on 18001 0115 841 5000).

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T&CO3 TM-SP 20260114