

DATED *2nd May* 2018

(1) UNITED KINGDOM RESEARCH AND INNOVATION

- and -

(2) M.R.C. PENSION TRUST LIMITED

- and -

(3) MEDICAL RESEARCH COUNCIL

**DEED OF AMENDMENT AND
FLEXIBLE APPORTIONMENT
AGREEMENT**

relating to
the MRC Pension Scheme



WE HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL
DATE... *13 June 2018*
SIGNED... *DLA Piper UK LLP*
DLA PIPER UK LLP

THIS DEED is made on

2nd May

2018

BETWEEN:

- (1) **UNITED KINGDOM RESEARCH AND INNOVATION** a body corporate created under the Higher Education and Research Act 2017 ("**Principal Employer**");
- (2) **MRC PENSION TRUST LIMITED** (company number 01218492) the registered office of which is at 2nd Floor, David Phillips Building, Polaris House, North Star Avenue, Swindon, Wiltshire SN2 1FL ("**Trustee**"); and
- (3) **MEDICAL RESEARCH COUNCIL** of 14th Floor, One Kemble Street, London WC2B 4AN ("**Withdrawing Employer**").

BACKGROUND:

- A The MRC Pension Scheme ("**Scheme**") is currently governed by a definitive trust deed and rules dated 20 December 2011, as amended from time to time ("**Trust Deed**").
- B The Trustee is the present trustee of the Scheme.
- C In this deed, each of the terms **Employment Cessation Event**, **Flexible Apportionment Arrangement**, **Assessment Period**, **Period of Grace** and **Funding Test** shall have the meaning given to them in the Occupational Pension Schemes (Employer Debt) Regulations 2005 (as amended) ("**Employer Debt Regulations**").
- D Under a deed of participation and substitution dated 2nd May 2018 ("**Deed of Participation**") and executed before this deed, the Principal Employer:
- (i) has become an employer for the purposes of the Scheme; and
 - (ii) has become the principal employer for the purposes and as defined under the Scheme, assuming the responsibilities as principal employer from the previous principal employer, the Withdrawing Employer.
- E At midnight on 31 March 2018 ("**Cessation Date**"), the Withdrawing Employer will cease to employ active members of the Scheme at a time when other Employers will continue to do so. As a result, an Employment Cessation Event will occur in relation to the Withdrawing Employer.
- F Rule 16.1 of the Trust Deed provides that the Principal Employer may at any time, by deed, with the consent of the Trustees pursuant to Rule 16.5 and subject to the provisions of clause 9 of the Charter of The Medical Research Council and the remaining terms of rule 16 of the Trust Deed, alter or repeal all of any of the rules of the Trust Deed ("**Rules**") for the time being in force or make any new Rules to the exclusion of or in addition to all or any of the existing Rules, and any Rules so made shall be deemed to be Rules of the same validity as if originally embodied in the Trust Deed and shall be subject in like manner to be altered or modified.
- G Under this deed, the parties wish to:
- (i) amend the provisions of the Scheme so as to introduce a power enabling the parties to enter into a Flexible Apportionment Arrangement on the occurrence of an Employment Cessation Event to apportion the liabilities attributable to the

Withdrawing Employer to the Principal Employer by way of a Flexible Apportionment Arrangement such that the debt that would otherwise become payable by the Withdrawing Employer under section 75 and 75A of the Pensions Act 1995 (and regulations made under those sections) ("**Section 75 Debt**") in consequence of the Employment Cessation Event will not be payable; and

- (ii) make consequential amendments to the Rules to reflect the position that the Withdrawing Employer will cease and determine on 1 April 2018;

all of which shall be effective immediately following the effective time of the Deed of Participation but prior to 1 April 2018 ("**Effective Date**").

- H The Trustee is satisfied that the amendments made by this deed are not "regulated modifications", as defined under section 67 of the Pensions Act 1995.
- I Words and expressions used in this deed shall, where the context permits, have the same meanings given to them in the Trust Deed.

IT IS AGREED THAT:

1. SCHEME RULES

The Principal Employer, in accordance with clause 9 of The Charter of the Medical Research Council dated 28 October 1966 and with the consent of the Trustee and the Withdrawing Employer (to the extent required), in exercise of the power contained in Rule 16.1 of the Trust Deed and any and every other power them hereunto enabling, hereby amends the Trust Deed by:

- 1.1 with effect on and from the Effective Date, inserting after Rule 1.11 a new Rule 1.12 of the Trust Deed as follows:

"1.12 Flexible Apportionment Arrangements

1.12.1 If an Employment Cessation Event occurs in respect of an Employer ("**Withdrawing Employer**"), the Withdrawing Employer with the consent of the Trustee may enter into a Flexible Apportionment Arrangement with another Employer ("**Replacement Employer**") in accordance with regulation 6E of the Occupational Pension Schemes (Employer Debt) Regulations 2005 (as amended) ("**Employer Debt Regulations**").

1.12.2 A Flexible Apportionment Arrangement may be made on such terms as are agreed by the Withdrawing Employer, the Replacement Employer and the Trustee, provided that the requirements of regulation 6E of the Employer Debt Regulations are met.

1.12.3 In this Rule 1.12, each of the terms **Employment Cessation Event** and **Flexible Apportionment Arrangement** shall have the meaning given to them in the Employer Debt Regulations.";

- 1.2 with effect on and from the Effective Date:

- 1.2.1 deleting the definition "Principal Employer" in rule 1.1 of the Rules and replacing it with the following:

""Principal Employer" means United Kingdom Research and Innovation a body corporate created under the Higher Education and Research Act 2017;"

1.2.2 inserting the following definition in rule 1.1 of the Rules:

""Secretary of State" means the relevant Secretary of State referred to in the Higher Education and Research Act 2017 (as amended from time to time);"
and

1.2.3 deleting rule 16.1 of the Rules and replacing it with the following:

"16.1 Power of alteration

The Principal Employer may, subject to the prior written consent of the Secretary of State, at any time, by deed, alter or repeal all of any of the Rules for the time being in force or make any new Rules to the exclusion of or in addition to all or any of the existing Rules aforesaid, and any Rules so made shall be deemed to be the Rules of the same validity as if originally embodied herein and shall be subject in like manner to be altered or modified."

2. FLEXIBLE APPORTIONMENT ARRANGEMENT

2.1 This deed constitutes, inter alia, a Flexible Apportionment Arrangement for the purposes of Rule 1.11 of the Trust Deed and the Employer Debt Regulations. The Flexible Apportionment Arrangement takes effect on the Cessation Date in accordance with clause 2.2 of this deed.

2.2 The Trustee, the Principal Employer and the Withdrawing Employer agree and consent to a Flexible Apportionment Arrangement in accordance with Rule 1.11 of the Trust Deed as follows:

2.2.1 the Principal Employer will take over responsibility for all the liabilities in relation to the Scheme within the meaning of Regulation 6ZB(17) of the Employer Debt Regulations ("Liabilities") of the Withdrawing Employer as those Liabilities stand immediately prior to the Cessation Date;

2.2.2 with effect from the Cessation Date, for the purposes of Regulation 6(4) of the Employer Debt Regulations all of the outstanding Liabilities previously attributable to the Withdrawing Employer will be treated as Liabilities of the Principal Employer;

2.2.3 each of the parties to this deed confirm that there has been no part payment to the Trustee of any debt by or on behalf of the Withdrawing Employer (nor is there any intention to do so), so the requirements set out in regulation 6E(5) of the Employer Debt Regulations do not need to be met;

2.2.4 the Trustee by this deed confirms that it is reasonably satisfied, for the purposes of regulation 6E of the Employer Debt Regulations, that the Funding Test is met in relation to the Flexible Apportionment Arrangement made by this deed;

2.2.5 the Trustee confirms that the Scheme is not in an Assessment Period and that it is satisfied that an Assessment Period is unlikely to begin in relation to the Scheme within the period of 12 months beginning with the Effective Date;

- 2.2.6 the Withdrawing Employer confirms that it is not in a Period of Grace; and
- 2.2.7 the Trustee and the Principal Employer confirm that the winding up of the Scheme has not been triggered.
- 2.3 The Trustee, the Principal Employer and the Withdrawing Employer confirm and in so far as necessary agree and resolve that:
- 2.3.1 the effect of the Flexible Apportionment Arrangement under this deed is that section 75(4) of the Pensions Act 1995 is modified by Regulation 6E(3) in respect of the Employment Cessation Event that is due to occur in relation to the Withdrawing Employer on the Cessation Date so that no amount is to be treated as a debt due to the Trustee as a result of that Employment Cessation Event;
- 2.3.2 if and to the extent that, for whatever reason, it is not possible for the Principal Employer to take over responsibility for the liabilities in relation to the Scheme of the Withdrawing Employer under clause 2.2 of this deed, the Withdrawing Employer, the Trustee and Principal Employer hereby acknowledge and agree that the Principal Employer will be treated for all purposes as being responsible for those liabilities;
- 2.3.3 the intention of the parties is that the arrangements described in this deed should achieve the aims set out in Recital G and to the extent that the arrangements described in this deed cannot or might not take effect as intended they will take such action (including but not limited to making any necessary amendments to this deed or the Trust Deed or entering into such additional documents as may be required) as is necessary to ensure that to the extent permitted by law the arrangements described in Recital G can have effect as intended;
- 2.3.4 in consideration of the undertakings given by the Principal Employer under clause 2.2 of this deed and the payment of the expenses due under Rule 15.16 of the Trust Deed, the Withdrawing Employer shall have no further liability to the Scheme under section 75 of the Pensions Act 1995 with effect on and from the Cessation Date;
- 2.3.5 the Withdrawing Employer will cease to be an Employer and will be discharged from all further liabilities towards the Scheme (whether under the Trust Deed or otherwise), on and from the Cessation Date;
- 2.3.6 there shall be no transfer payment made for the purposes of Rule 17.3.3.3(e) and accordingly any "Appropriate Part of the Fund" shall remain in the Scheme and the benefits for any Relevant Beneficiaries concerned shall be provided out of the Scheme, in lieu of securing such benefits pursuant to Rule 17.6; and
- 2.3.7 for the avoidance of doubt, where any liabilities have arisen before the Cessation Date but have not been discharged by the Withdrawing Employer on or before that date, these will become liabilities of the Principal Employer on and from the Cessation Date, and that the Trustee will have no further claim against the Withdrawing Employer in relation to those liabilities.

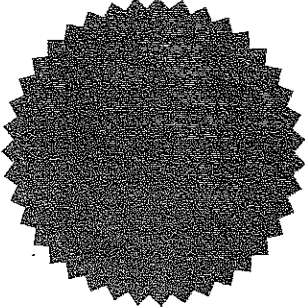
- 2.4 The Trustee confirms that it will notify the Pensions Regulator in writing of its decision to enter into this deed in accordance with the requirements of Schedule 1B to the Employer Debt Regulations.
- 2.5 By executing this deed, the Trustee is not entering into a legally enforceable agreement which has the effect of reducing the amount of any Section 75 Debt due to the Scheme which may be recoverable by (or on behalf of) the Trustee so that the Scheme would cease to be an eligible scheme by reason of regulation 2(2) of the Pension Protection Fund (Entry Rules) Regulations 2005 ("**Entry Regulations**"). In any event, the parties intend that this deed will qualify as a Flexible Apportionment Arrangement and agree that in these circumstances regulation 2(4) of the Entry Regulations will apply.
- 2.6 The Principal Employer will reimburse the Trustee for all reasonable costs which it incurs in connection with this Flexible Apportionment Arrangement and the Employment Cessation Event in relation to the Withdrawing Employer.

3. SUPPORTING PROVISIONS

- 3.1 Where events described in this deed are stated to occur on the same day, they will occur in the order set out in this deed.
- 3.2 A reference to a statute or a statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 3.3 The parties to this deed do not intend that any terms of this deed should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this deed, except any future trustee of the Scheme enforcing a term of this deed in his position as a trustee of the Scheme, or any successor employer to the Principal Employer.
- 3.4 This deed may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument.
- 3.5 If any part of this deed is held to be invalid or unenforceable, the rest of this deed will be construed (to the maximum extent possible after making suitable grammatical and other minor consequential changes) as if it had been executed omitting the invalid or unenforceable words and will remain in full force and effect.
- 3.6 This deed shall be governed by and interpreted in accordance with the law of England and Wales and the parties hereto submit to the exclusive jurisdiction of the courts in England and Wales.

IN WITNESS of which this deed has been executed by or on behalf of the parties and delivered the day and year first above written.

Executed as a deed by affixing the common seal of **MEDICAL RESEARCH COUNCIL** in the presence of:



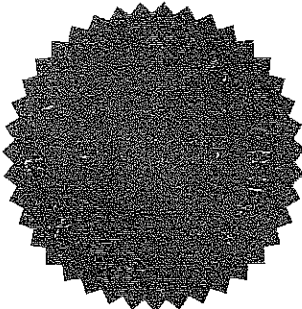
Signature *Donald Brydon*

Name (block capitals) DONALD BRYDON
Authorised Signatory

Signature *Fiona M. Watt*

Name (block capitals) FIONA M. WATT
Authorised Signatory

Executed (but not delivered until the date hereof) as a deed by **M.R.C. PENSION TRUST LIMITED** acting by two directors or a director and the company secretary:



Signature *Hugh Dunlop*

Name (block capitals) HUGH DUNLOP
Director

Signature *James Clerk*

Name (block capitals) JAMES CLERK
Secretary/Director

Executed as a deed by affixing the common seal of **UNITED KINGDOM RESEARCH AND INNOVATION**

in the presence of:

Sankey

Member

