



# Aurora Europa<sup>®</sup> Lite Pensions Trust

## **AURORA EUROPA LITE PENSIONS TRUST -THE RULES**

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## 1. Definitions

In these Rules the following words and expressions shall have the meanings attributed to them as set out below:

“Act”	means the Gibraltar Income Tax Act 2010 (as amended) from time to time and where appropriate any other acts or regulations made thereunder or any conditions which the Commissioner of Income Tax lays down for the approval of a pension fund.
“Annuity”	means a recurring or repetitive payment over such period as the Trustees decide, payable by the Trustees from the funds held in the Member’s Sub-Fund in line with the Rules of the Scheme.
“Annuity Provider”	means a duly authorised insurance company which is authorised by its regulator to provide annuities on such terms and for such period as the Trustees determine having regard to the financial position and interests of the affected Member or his Beneficiaries and the responsibility to maximise the amount received by the affected Member or his Beneficiaries under any such annuity, taking account of the effect of any taxation applicable to such annuity.
“Approval”	means approval of the Scheme by the Commissioner in accordance with the Act and with all other acts enactments or regulations including any preservation requirements of the Gibraltar Parliament as these are amended from time to time.
“Beneficiary”	means in respect of a Member his Spouse, his Dependants and his Relations and the term Beneficiaries shall have a corresponding meaning.
“Benefit Date”	means such date or dates no earlier than age 55 or later than age 75 or which the Trustees agree with a Member that an Annuity shall become payable from the Member’s Sub-Fund or any segment of the Member’s Sub-Fund to which a Benefit Date is to apply.
“Child”	means a natural child of a Member or a Beneficiary and includes a stepchild, a legally adopted child to whom in the opinion of the Trustees the Member or other person as appropriate stands or would but for the Member’s death have stood in loco parentis.
“Civil Partner”	means one of the persons in a relationship between two persons of the same gender or of the opposite gender who has either been identified in writing to the Trustees as a live-in partner by the other partner of a relationship which has, in the sole and absolute discretion of the Trustees, similar effect as a legal marriage, has a degree of permanence and interdependence akin to a marriage relationship.
“Commencement Date”	means the date on which the Rules of the Scheme are established and brought into operation as from the date this Deed is executed.
“Commissioner”	means the Commissioner charged with the administration of the Act and its subsidiary regulations and statutory modification or re-enactment thereof for the time being in force.
“Contributions”	means funds received from a Member or on behalf of a Member to be added to that Member’s Sub-Fund or Sub-Fund’s contribution account and to be held within that Sub-Fund for the exclusive benefit of that Member and his Beneficiaries. The Trustees may accept at their discretion any Marketable Securities from the Member as a contribution or part thereof provided that he is eligible to make such a transfer and the level of such contribution is within the provision of the Act and the Regulations.
“Deed”	means any instrument in writing duly executed by each of the person or persons who is or are party to the trust deed dated 22 September 2014.
“Dependant”	means in respect of a Member any person who in the determination of the Trustees is or was on the death of the Member dependent on the Member for all or part of the necessities of life or whose maintenance and support the Member had undertaken immediately before his death.

"Marketable Securities" means any liquid investment or asset, which the relevant custodian may hold as provided in clause 10.5 (ii) and (iii), and can be readily traded on a stock exchange or through fund managers (including cash, stocks, shares, funds, government or euro bonds).

Where there is any doubt arising as to whether an asset is defined as a Marketable Security the Trustees will determine the position which shall be final and conclusive.

For the avoidance of doubt the following investments are excluded and nothing in the Trust Deed or Rules shall allow the Trustees to invest in the following:

- a) any assets which would be construed as "Taxable Property" under the Regulations;
- b) any assets which are excluded by the Act including:
  - i) loans to Members or to any person who is a connected party to a member or to any Dependant as defined;
  - ii) loans to or investment in shares of any unquoted company or firm which is the employer of a Member;
  - iii) residential property;
  - iv) commercial property occupied for business purposes by a Member's employer which is greater than 50% of the value of a Member's Sub-Fund;
  - v) unquoted securities where there is no independent valuation and investment dealing is not at arm's length nor at commercial rates;
  - vi) loan capital or debentures of the employer of a Member or of a connected persons thereof.

Clauses 10.5 (ii) and (iii), referred to above, provide that investments or assets may be held by "a bond, managed capital account, policy or contract" provided by "any reputable insurance company", or "a discretionary management account, advisory account, execution and custodian account, offshore platform, fund management account or bank account"

"Member" means the individual person or persons admitted as a Member of the Scheme in accordance with the First Schedule of this Deed for whose respective benefit an individual Sub-Fund is established and maintained.

"Member's Interest" means the amount of the Member's Net Sub-Fund at any time during the lifetime of the Member. Such amount shall be calculated by the Trustees having regard to all Transfers or Contributions made to and from that Sub-Fund for and in respect of the Member, the investment income of that Sub-Fund whether interest, dividends or otherwise, the capital appreciation or depreciation of the investments of that Sub-Fund whether realised or unrealised, and any other matters that the Trustees consider relevant when making their calculation.

"Net Sub-Fund" means in respect of each Sub-Fund the balance of that Sub-Fund after deducting provision for all outstanding liabilities of that Sub-Fund other than the benefits under the Scheme.

"Normal Retirement Date" means in respect of each Member, such date no earlier than the age of 55 and no later than the age of 75 as may be in accordance with the Act (or such other age as may be permissible under the Act) and as specified by that Member in writing to the Trustees or in default of such specification as determined by the Trustees and notified to that Member by the Trustees.

"QROPS" means Qualifying Recognised Overseas Pension Scheme.

"Regulations" means a QROPS within the meaning of sub-sections 150(7) and (8) and 169(2) of the UK Finance Act 2004 and for the purposes of the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations, 2006, UK Statutory Instruments 2006/206 as amended by UK Statutory Instruments 2007/1600 and 2012/884 or as later amended or substituted.

"Relations" means in respect of a Member any of the following individuals:-

- (i) the widow or widower of the Member;
- (ii) the lawful Civil Partner of the Member;
- (iii) any Child (whether legitimate or illegitimate) or other descendant of the Member and the spouse or widow or widower of any such Child or descendant;
- (iv) the father or mother (whether natural or adoptive) or other ancestor of the Member and the widow or widower of any such father or mother or other ancestor;
- (v) any brother or sister (whether of the whole blood or half blood and whether natural or adoptive) and the widow or widower of any such person,
- (vi) such person or bodies (trustees where a Beneficiary is a beneficiary of a trust, or where a Beneficiary is the beneficial owner of a corporate vehicle) or charity as the Trustees may by agreement appoint provided that the Trustees and any employee thereof shall not be appointed as a Relation hereunder.

“Retirement Benefit Scheme”	has the same meaning as in section 393A of the United Kingdom Income Tax (Earnings and Pensions) Act 2003 as later amended or substituted but shall also include any such scheme under which pensions and/or annuities are provided for.
“Rules”	means these Rules as amended from time to time in the manner prescribed by this Deed.
“Scheme”	means Aurora Europa Life Pensions Trust.
“Spouse”	means a Member’s lawful spouse or Civil Partner at the date of death of the Member.
“Sub-Fund”	means in respect of a Member, that Member’s Sub-Fund established and maintained hereunder, and initial assets together with further assets transferred or contributed to that Sub-Fund by the Member or other persons from time to time and thereafter being the money or property for the time being held by or on account of the Trustees or to which they are presently or prospectively entitled in pursuance of the Scheme and all investments wheresoever situated made by them as Trustees and all other assets wheresoever situated which the Trustees receive in accordance with the terms of the Scheme (with all income accretions options and appurtenances whatsoever pertaining to such investments and assets) for the time being so held or to which the Trustees are so entitled which shall be kept separate from other Sub-Funds and shall be separately identified by the Member’s client name and reference number.
“Transfers”	means property received by the Trustees of the Scheme from an assurer or trustee or a Retirement Benefits Scheme under which the Member is entitled to benefits (whether immediately, vested or contingent) or any other arrangement which does or can provide retirement benefits for that Member to be added to that Member’s Sub-Fund or Sub-Fund’s transfer account and to be held within that Sub-Fund for the exclusive benefit of that Member and his Beneficiaries.
“Will”	means in respect of a Member the written and duly executed last will and testament of that Member.

## **2. INTERPRETATION**

In these Rules and in the Deed:

- (i) pronouns and adjectival pronouns denoting the masculine gender shall be construed as including the feminine gender;
- (ii) words in the singular shall be construed as including words in the plural and vice versa;
- (iii) reference to a law shall be construed as including reference to that law and any order regulation or directive issued pursuant to that law as modified by or under any other law and reference to any re-enactment thereof or any part thereof and to any of its provisions for the time being continuing in force (with or without modification) by virtue of any other law.

## **3. CONSTITUTION AND ADMINISTRATION**

The Rules of the Scheme are established and brought into operation by the Deed as from the Commencement Date. The main purpose of the Scheme is the provision of retirement Annuities and other benefits for and in respect of the Member, and Annuities and other benefits for his Spouse, Dependants and Relations in accordance with the Act. The Trustees shall administer and manage the Scheme in accordance with these Rules or any modification thereof duly made as hereby provided and for the time being in force.

## **4. MEMBERSHIP**

- (a) In respect of each Member the establishment of and benefit from the relevant Sub-Fund established and maintained for his benefit shall be available to the Member provided that he is eligible to do so according to the Act and provided that the Trustees at their discretion admit him as a Member and confirm that admission to that respective Member in writing.
- (b) A Member shall cease to be a Member only when the assets in the relevant Sub-Fund are exhausted or on the death of the Member or by an outward transfer under Rule 8.

## **5. CONTRIBUTIONS**

A Member or the Member’s employer may make such Contributions to his Sub-Fund maintained for his benefit of any amount and at such intervals as shall be agreed with the Trustees provided that such contributions payable by the Member do not exceed or are not lower than such limits as imposed by the Trustees and/or the Commissioner may from time to time by regulations prescribe.

The Trustees at their discretion may create a contribution account within the Sub-Fund to hold Contributions received to segregate and account for the funds received from transfers of UK tax relieved funds.

The Trustees shall have power to accept or reject any Contributions by any Member to the relevant Sub-Fund, provided that such Contributions are consistent with the Scheme being a retirement annuity scheme within the meaning of the Act.

No return of Contributions paid into the Scheme by the Member or the Member's employer is permitted.

## **6. ANNUITY AT NORMAL RETIREMENT DATE**

A Member who has reached Normal Retirement Date shall be entitled to an Annuity of such amount and payable for such period, in accordance with the Rules of the Scheme, as the Member and Trustees may agree and in default of any such agreement as determined by the Trustees. Any such Annuity may be provided from the Member's Sub-Fund or may be purchased from an Annuity Provider at the Member's Normal Retirement Date or such later date but no later than the Member's seventy fifth birthday (or such other date as may be permissible under the Act) as the Member shall notify the Trustees in accordance with the Rules.

## **7. OPTIONS AT NORMAL RETIREMENT DATE**

- (a) Prior to the Annuity coming into payment in accordance with Rule 6 the Member with not less than one month's notice to the Trustees may request the Trustees to:-
- i) sub-divide the Member's Net Sub-Fund into two or more segments with each segment providing a separate Annuity where for the avoidance of doubt such separate Annuities may each have a separate Benefit Date;
  - ii) sub-divide a segment, where an Annuity has not commenced, into two or more segments with each segment providing a separate Annuity where for the avoidance of doubt such separate Annuities may each have a separate Benefit Date.
- (b) Prior to the Annuity coming into payment in accordance with Rule 6 or, where the Member's Net Sub-Fund has been segmented in accordance with paragraph (a) of this Rule, prior to each Annuity in respect of the Member's Net Sub-Fund or a segment of the Member's Net Sub-Fund coming into payment as the case may be the Member with not less than one month's notice to the Trustees may make one or more of the following elections in relation to that Annuity as the Trustees shall permit and as permitted by the Regulations and/or the Act:-
- (i) for the granting of an Annuity payable for his lifetime, whilst funds are held in the Member's Net Sub-Fund, commencing earlier than age 75, but not earlier than age 55 except where permitted by the Regulations and/or the Act;
  - (ii) for part of the Annuity to be commuted for a lump sum, provided that the lump sum shall not exceed 30% of the value of the Net Sub-Fund or any such greater amount as the Act may from time to time permit at the discretion of the Trustees. Such lump sum shall be calculated at the Benefit Date and become payable at the same time or before or after the Member commences payment of an Annuity but only where permitted by the Regulations and/or the Act;
  - (iii) for payment of an Annuity to be made for a guaranteed period not exceeding ten years notwithstanding the death of the Member during that period at the discretion of the Trustees but only where permitted by the Regulations and/or the Act;
  - (iv) for payment of a "temporary annuity" payable for a fixed period or for an Annuity payable for the remainder of his life, as long as funds are held to pay such Annuity at the discretion of the Trustees but only where permitted by the Regulations and/or the Act;
  - (v) for all or part of the Annuity to be exchanged for a reversionary Annuity payable to a named dependant of the Member for his life from the date of death of the Member should the Member predecease such named dependant. The amount of that reversionary Annuity shall not exceed the Annuity otherwise payable to the deceased Member. That named dependant must be either the Spouse of the Member at the date of receipt of notice by the Trustees or a Dependant of the Member.
  - (vi) for the transfer of the value of the Member's Sub-Fund to be applied as a premium for an alternative arrangement which shall provide benefits substitution for the Annuity payable under the Scheme.
- (c) For the avoidance of doubt an Annuity receivable by a Member shall not be capable of surrender, commutation or assignment except where permitted by the Regulations and/or the Act but to the extent so permitted shall be so capable.
- (d) The amount of any Annuity payable or lump sum from any Sub-Fund or any segment of a Sub-Fund will be determined by the Trustees by taking into account the Regulations and the Act.
- (e) The Annuity will be reviewed and determined by the Trustees by taking into account the Regulations and the Act.

## **8. TRANSFER PAYMENTS**

### **Inward Transfers**

All inward Transfers are subject to any restrictions and rules prescribed by the Act and/or by the Commissioner.

Subject to the above, the Trustees may accept into a Member's Sub-Fund in respect of the Member a transfer payment from an assurer or trustee or an administrator of a Retirement Benefits Scheme where the Member is entitled to benefits (whether immediate, vested or contingent) or any other arrangement which does or can provide benefits for that Member. The transfer payment (which may include a transfer of assets other than money) shall secure benefits under the Sub-Fund in substitution for the benefits under the original retirement annuity contract or superannuation fund or pension scheme or other trust or contract or arrangement. The substituted retirement Annuity shall be of an amount determined by the Trustees. Without prejudice to the generality of the foregoing at least seventy per cent (70%) of any sums received by the Trustees constituting UK tax relieved pension funds will be designated by the Trustees to provide the relevant Member with an income for life except where permitted by the Act and/or the Regulations but to the extent so permitted shall be capable.

The Trustees at their discretion may create a transfer account within the Sub-Fund to received transfer funds made up of UK tax relieved funds to segregate and account for the funds received from Transfers of UK tax relieved funds and funds received by way of Contributions.

Transfer payments are specifically not treated as Contributions for the purposes of the Act and accordingly they do not qualify for any tax reliefs or deductions in Gibraltar.

### **Outward Transfers**

All outward transfers are subject to the restrictions and rules prescribed by the Act, the Commissioner or the Regulations.

Subject to the above the Trustees, at their discretion, if requested by the Member in writing may, pay out a sum equal to the Net Sub-Fund, or transfer the assets less any outstanding fees at any time, to the trustee of any scheme or administrator of any Retirement Benefits Scheme, subject to the following

1. That the rules of the receiving scheme permit the acceptance of transfer payments.
2. The Trustees satisfy themselves that to do so will not prejudice Approval, the Act or the Regulations.
3. The trustees or scheme administrators of the receiving scheme agree to observe and comply with any applicable undertaking imposed on the Trustees as a precondition of the original Transfer in to the Scheme which is referable to the assets held in the relevant Net Sub-Fund.
4. That the trustees or scheme administrators of the receiving scheme together with the Member completes and signs the Trustees' standard letter of undertaking and indemnity which provides them with reasonable security indemnifying them against liabilities whether existing, future or contingent prior to releasing such sums.
5. The Trustees shall, before making any transfer payment under this Rule, be entitled to deduct any tax due in respect of the transfer and may also first deduct a sum or assets representing reasonable security for their costs, fees and expenses including taxes which are referable to the cash or assets being transferred.
6. To the extent that the transfer relates to UK tax relieved pension funds, a transfer may only take place if the receiving scheme is either a QROPS for the purposes of the Regulations or which offers benefits no more generous than those contained in the Rules of the Scheme.
7. The receipt of the Net Sub-Fund by the trustees or administrator of the receiving scheme shall operate as a complete discharge to the Trustees in respect of the Member or any Beneficiary who is contingently entitled through the Member.

## **9. DEATH BENEFIT**

(a) On receipt of proof satisfactory to the Trustees of the death of the Member:-

(i) before and after the Annuity has come into payment the Trustees may pay a sum which is equal to the Net Sub-Fund of the Member's Sub-Fund in accordance with the provisions of this Rule; or

(ii) after the Annuity has come into payment any Annuity will cease on death whether in arrears or not, and no further Annuity payments will be made to that Member or his estate, except where any part of the Annuity has been commuted for a lump sum, and remains payable to the Member in whole or in part as at the date of death, then the lump sum payable shall be paid to that Member or his estate.

- (b) The Trustees shall have the power within the period of two years after the Member's death to pay or apply such benefit as is referred to in Rule 9(a) being the Net Sub-Fund of the deceased Member's Sub-Fund after payment of any sums due in accordance with Rule 9(a) to or for the benefit of any one or more to the exclusion of the other or others of the Member's Dependants and Relations living at the Member's death and/or to such persons or bodies as the Member may have notified in writing to the Trustees (as being persons or bodies as the Member wishes the Trustees to consider as possible recipients of any benefit payable from the Member's Net Sub-Fund on the Member's death), or in default of any such notification by the Member, as the Trustees may in their absolute discretion determine for the benefit of any one or more to the exclusion of the other or others of the Member's Dependants and Relations living at the Member's death, and in all cases in such shares and in such manner as the Trustees shall in their absolute discretion determine. In exercising this power the Trustees may have regard to but shall not be bound by any wishes notified to the Trustees by the Member.
- (c) If at the end of any period within which the Trustees may exercise the power under Rule 9(b) the Trustees shall not have exercised the said power or shall have exercised it only in respect of part of the benefit aforesaid, the Trustees shall pay the whole or the balance (as the case may be) of such benefit from the Net Sub-Fund to such of the Member's Dependants and Relations living at the Member's death as the Trustees at their discretion determine, and in default of such determination in equal shares absolutely.
- (d) For the avoidance of doubt no part of the relevant Net Sub-Fund or other property held for the benefit of a Member and his Beneficiaries shall be or become payable to the estate of the relevant deceased Member except to the extent (if any) that his estate is entitled to receive payment of any part of the Annuity which has been commuted for a lump sum, and remains payable to the Member in whole or in part as at the date of death from that Sub-Fund in accordance with Rule 9(a) (ii), and all property comprised in that Sub-Fund shall be payable to that Member's Dependants and Relations as specified in Rule 9(b).

## **10. GENERAL PROVISIONS RELATING TO BENEFITS**

- (a) Payment of the Annuity will be made annually, the first payment being due at Normal Retirement Date. Alternatively, the Member may request that the payments of the Annuity be made monthly, quarterly, or half yearly and the annuity so payable may be determined by the Trustees:
- (b) In the case of an Annuity which is to continue for a guaranteed period such Annuity may be assigned by Will. In the event of a Member entitled to such an Annuity dying intestate the instalments of such Annuity payable up to the date of the Member's death only shall be assignable by the Member's personal representatives in the distribution of his estate.
- (c) Without prejudice to any express provision contained in the Deed or Rules the Trustees shall be entitled to deduct from the Sub-Fund a sum equal to any tax, charge, levy or duty for which the Trustees are or may become liable and from any benefit or other payment made under the Sub-Fund a sum equal to any tax levy or duty (and any interest or penalty chargeable thereon) for which the Trustees are or may become liable in consequence of such payment.
- (d) Notwithstanding anything contained to the contrary in the Deed or these Rules, where payment of any benefit from any Sub-Fund is to be made to an infant or to a person who appears in the opinion of the Trustees to be suffering from any mental disorder or physical or other incapacity rendering him unable to manage his affairs or to give a proper receipt for the whole or any part of the benefit the Trustees may at their discretion determine that such benefit shall be paid to and applied for the maintenance of that person by any person or persons body corporate or institution whom the Trustees in their absolute discretion shall decide, and the receipt of that person or persons body corporate or institution so paid shall be a complete discharge for such benefit and the Trustees shall be under no liability to see to the application thereof.

## **11. NOTICES**

Any notice which in accordance with the provisions of the Scheme is required to be given to any person may be given personally or sent through the post to the person for whom it is intended at his last known address or by email or if required to be given or served upon the Trustees shall be sent by registered post addressed to the Trustees at their registered office and in such service it shall be sufficient to prove that the notice was properly addressed and posted. Any notice sent through the post shall in the absence of evidence that it was received at an earlier date be deemed to have been received on the tenth day after posting.

## 12. EVIDENCE

- (a) The Member shall furnish evidence to the satisfaction of the Trustees of the date of his birth and (where appropriate) of his marriage and the date of birth of his Spouse.
- (b) Any Beneficiary under the Scheme shall produce such evidence and information as may be required by the Trustees for the purposes of the Scheme and payment of any benefit in respect of the Sub-Fund to such Beneficiary shall be conditional upon production by such Beneficiary of any evidence or information that the Trustees may reasonably require.

## 13. ACCOUNTS AND REPORTS

A copy of the accounts of the Scheme if applicable upon the state of each Sub-Fund, and a copy of the Deed and the Rules shall be open to inspection by the Member at the registered office of the Trustees with reasonable notice to the Trustees and during their normal business hours. For the avoidance of doubt, a Member may only inspect the records relating to his own Sub-Fund, and not the Sub-Funds relating to other Members. The Trustees shall not be obliged to provide a copy of the Deed or the Rules to any Member or any vested beneficiary or their financial advisers or their legal advisers but may do so at their discretion.

## 14. CLOSURE

- (a) In respect of each Member the Sub-Fund shall be closed and the Member's Interest shall be held subject to the terms and conditions of the Sub-Fund for the benefit of the Member's Beneficiaries upon the death of the Member.
- (b) In respect of each Member upon the closure of the Sub-Fund the Trustees shall maintain and administer that Member's Interest for the provision of benefits for the Member's beneficiaries in accordance with the Rules until such time as they shall decide that the Sub-Fund shall be wound up in accordance with Rule 15.

## 15. WINDING UP OF A SUB-FUND

If and whenever a Sub-Fund is wound up the property in the Sub-Fund may be realised and subject to the payment of all costs charges and expenses properly payable from the net proceeds of such realisation and any moneys then in hand shall be applied at that date (hereinafter called "the relevant date") for the benefit of the Member's Beneficiaries and every benefit shall be of such amount as the Trustees shall consider appropriate having regard to the rights or prospective rights of each such person PROVIDED THAT:

- (i) the total value of the benefits payable to or in respect of each Beneficiary shall be equal to the amount of the Member's Interest at the relevant date;
- (ii) the benefits provided under this rule may be secured by the purchase from a reputable insurance company of non-assignable and (except to the extent that Approval is not prejudiced) non-commutable annuities and ancillary benefits of such amounts and subject to such terms and conditions as to payment and otherwise as nearly as possible the same as those applicable under the Rules of the Scheme;
- (iii) the Trustees may in lieu of making provision for any Beneficiary under this Rule make a transfer payment to the trustee of a scheme or administrator of another scheme for the purpose of Rule 7(b) (vi) of which such Beneficiary becomes a Member and the provisions of Rule 7(b) (vi) shall mutatis mutandis apply to such transfer;
- (iv) the balance of the Sub-Fund (if any) remaining after benefits to and in respect of the Member and the Member's Beneficiaries have been secured shall be payable to such persons as the Trustees, having regard to any wishes of the Member previously notified in writing to the Trustees and subject to any requirements of the Trustees, shall in their discretion determine.

## 16. WINDING UP OF THE SCHEME

If and whenever all the Sub-Funds shall be wound up and the value of property in those Sub-Funds realised and subject to the payment of all costs, charges and expenses properly payable thereout, the Scheme shall be wound up by a resolution of the Trustees.