

IN THE ROYAL COURT OF GUERNSEY

IN THE MATTER OF

SLFC ASSURANCE (UK) LIMITED

- and -

SUN LIFE ASSURANCE COMPANY OF CANADA (U.K.) LIMITED

**AN APPLICATION PURSUANT TO SECTION 44 OF
THE INSURANCE BUSINESS (BAILIWICK OF GUERNSEY) LAW, 2002**

GUERNSEY SCHEME

Interpretation

Definitions

- 1.1 In this scheme (the "**Guernsey Scheme**"), unless inconsistent with the subject or context, the following expressions bear the meanings respectively set opposite them:

"Excluded Guernsey Policies" means those Guernsey Insurance Policies comprised in or relating to the Transferring Guernsey Business under which any liability remains unsatisfied or outstanding at the Guernsey Effective Time and which the Royal Court for any reason determines not to transfer by virtue of the Guernsey Order together with the rights, benefits, powers, liabilities and obligations under such Guernsey Insurance Policies;

"Guernsey Effective Date" means the date ascribed to it in paragraph 5.1 of this Guernsey Scheme;

"Guernsey Effective Time" 23.59 on the Guernsey Effective Date;

"Guernsey Insurance Policies" means all Insurance Policies written in whole or in part by SLFC (or a predecessor company to and transferred to SLFC):

- (a) in respect of which any liability remains unsatisfied or outstanding at the Guernsey Effective Time; and
- (b) which are governed by Guernsey law or issued to residents of the Bailiwick of Guernsey (which the Royal Court has jurisdiction to transfer pursuant to the Guernsey Law);

"Guernsey Law" means the Insurance Business (Bailiwick of Guernsey) Law, 2002;

"Guernsey Order" means an order made by the Royal Court pursuant to Section 44 of the Guernsey Law sanctioning this Guernsey Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Guernsey Scheme made by the Royal Court pursuant to section 44 of the Guernsey Law;

"Residual Guernsey Asset" means in relation to the Transferring Guernsey Business:

- (a) any Asset comprised in or relating to the Transferring Guernsey Business, the transfer of which:
 - (i) is agreed by SLOC and SLFC, or is proved by any third party, to be subject to the law of any country or territory outside Guernsey and that further steps, in addition to the Guernsey Order, are required to secure that its transfer is fully effective under the law of that country or territory;
 - (ii) requires, at the Guernsey Effective Time, the waiver by any third party of any right to acquire, or be offered the right to, or to offer to, acquire or procure the acquisition by some other person of, all or any part of such Asset, being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
 - (iii) would result in a third party having a right to terminate an agreement with SLFC or SLOC or to claim compensation in damages or otherwise,

and which the Royal Court either does not have jurisdiction to transfer pursuant to Section 44 of the Guernsey Law without such steps being taken as are referred to in (a)(i) or the rights referred to in (a)(ii) and (a)(iii) being waived, or which the Royal Court determines not so to transfer by virtue of the Guernsey Order, but in any case to the extent only of that part of the interest of SLFC in any such Asset

the transfer of which requires such steps and/or waiver or which the Royal Court determines not to transfer;

- (b) any interest of SLFC in any Asset comprised in the Transferring Guernsey Business the transfer of which SLOC and SLFC agree prior to the Guernsey Effective Time is to be delayed until after the Guernsey Effective Time, including the rights and interest of SLFC in any Reassurance Contract which covers Residual Guernsey Policies;
- (c) any interest of SLFC in any Asset comprised in the Transferring Guernsey Business which SLOC and SLFC shall agree prior to the Guernsey Effective Time is more conveniently to be transferred pursuant to this Guernsey Scheme after the Guernsey Effective Time in conjunction with any Assets referred to in paragraphs (a) and (b) of this definition or in conjunction with a Residual Guernsey Liability;
- (d) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, from time to time earned on or received after the Guernsey Effective Time in respect of any such Assets referred to in paragraphs (a) to (c) of this definition,

but excluding the rights, benefits and powers under the Residual Guernsey Policies;

"Residual Guernsey Liabilities" means in relation to the Transferring Guernsey Business:

- (a) any Liability comprised in or relating to the Transferring Guernsey Business, the transfer of which:
 - (i) is agreed by SLOC and SLFC, or is proved by any third party, to be subject to the law of any country or territory outside Guernsey and that further steps, in addition to the Guernsey Order, are required to secure that its transfer is fully effective under the law of that country or territory; or
 - (ii) would result in a third party having a right to terminate an agreement with SLFC or SLOC or to claim compensation in damages or otherwise,

and which the Royal Court either does not have jurisdiction to transfer pursuant to Section 44 of the Guernsey Law, without the necessary steps being taken or the termination and/or compensation rights being waived or which the Royal Court determines not so to transfer by the virtue of the Guernsey Order, but in any case to the extent only of that part of the Liability the transfer of which requires such steps and/or waiver or which the Royal Court determines not to transfer;

- (b) any other Liability comprised in the Transferring Guernsey Business, the transfer of which SLOC and SLFC agree prior to the Guernsey Effective Time is to be delayed;
- (c) any other Liability comprised in the Transferring Guernsey Business which SLOC and SLFC agree prior to the Guernsey Effective Time is more conveniently to be transferred pursuant to this Guernsey Scheme after the Guernsey Effective Time in conjunction with any Liabilities referred to in paragraphs (a) and (b) of this definition or in conjunction with a Residual Guernsey Asset;
- (d) any Liability that is attributable to or connected with a Residual Guernsey Asset or Residual Guernsey Liability that has arisen or arises at any time before the Subsequent Transfer Date applicable to that Residual Guernsey Asset or Residual Guernsey Liability,

but excluding any Liability under the Residual Guernsey Policies;

"Residual Guernsey Policies" means Excluded Guernsey Policies and, pending the taking of the relevant steps, further agreement between SLFC and SLOC, or a further determination by the Royal Court, the Retained Guernsey Policies;

"Retained Guernsey Policies" means any Guernsey Insurance Policy comprised in or relating to the Transferring Guernsey Business in respect of which:

- (a) it is agreed by SLOC and SLFC, or proved by the relevant Policyholder or the Guernsey Financial Services Commission, whether before or after the Guernsey Effective Time, that approval by the Royal Court is required in order to effect the transfer of such Guernsey Insurance Policy from SLFC to SLOC, and such approval has not been provided at or prior to the Guernsey Effective Time;
- (b) its transfer is expressly refused by the Royal Court;
- (c) the Guernsey Order requires further steps be taken to make the transfer fully effective; or
- (d) SLOC and SLFC agree prior to the Guernsey Effective Time that its transfer is to be delayed until after the Guernsey Effective Time;

"Royal Court" means the Royal Court of Guernsey;

"Subsequent Transfer Date" in relation to any Residual Guernsey Policy, Residual Guernsey Asset or Residual Guernsey Liability any date, following the Guernsey Effective Time, on which such Residual Guernsey Policy, Residual Guernsey Asset or Residual Guernsey Liability is transferred, such date to be determined by:

- (a) in the case of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (a) of the respective definitions thereof, and of any Residual Guernsey Liability which is attributable to or connected with such Residual Guernsey Asset or any Residual Guernsey Asset which is attributable to or connected with such Residual Guernsey Liability - the date on which the requisite consent, or where applicable, the requisite waiver or step to enable the same to be transferred upon the terms of the Guernsey Scheme is:
 - (i) obtained or taken; or
 - (ii) no longer required; or
 - (iii) dispensed with by the Royal Court;
- (b) in the case of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (b) of the respective definitions thereof and of any Residual Guernsey Liability which is attributable to or connected with that Residual Guernsey Asset – the date agreed in writing by SLOC and SLFC;
- (c) in the case of a Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (c) of the respective definitions thereof – the transfer date applicable to the Liability or Asset in conjunction with which it was determined to be a Residual Guernsey Asset or Residual Guernsey Liability;
- (d) in the case of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (d) of the respective definitions thereof – the transfer date applicable to the Assets to which such proceeds, income, accrual or return is earned on or received, or the transfer date applicable to the Residual Guernsey Asset or Residual Guernsey Liability to which the Liability is attributed or connected;

- (e) in the case of any Retained Guernsey Policy falling within paragraph (a) or (c) of the definition thereof – the date on which the requisite approval is obtained, or on which such further steps have been taken;
- (f) in the case of any Retained Guernsey Policy falling within paragraph (b) of the definition thereof – the date on which the Royal Court makes a further determination or judgment allowing the transfer of such Retained Guernsey Policy to SLOC;
- (g) in the case of any Retained Guernsey Policy falling within paragraph (d) of the definition thereof – the date agreed in writing by SLOC and SLFC;
- (h) in the case of any Excluded Guernsey Policy, the date on which the novation or transfer of all of the rights, benefits and powers, together with all the obligations and Liabilities relating to such Policy becomes effective in Guernsey;

"Transferring Guernsey Assets" means all or any Transferring Assets relating to or forming part of the Transferring Guernsey Business immediately prior to the Guernsey Effective Time excluding, until the relevant Subsequent Transfer Date (if any), the Residual Guernsey Assets and the rights, benefits and powers of SLFC under the Residual Guernsey Policies;

"Transferring Guernsey Business" means all or any of the Transferring Business (including the Transferring Guernsey Policies, the Transferring Guernsey Contracts, the Transferring Guernsey Assets and the Transferring Guernsey Liabilities relating to or forming part of such business) in respect of Transferring Policies governed by Guernsey law or issued to residents of the Bailiwick of Guernsey immediately prior to the Guernsey Effective Date including in each case all activities carried on in connection with such business;

"Transferring Guernsey Contracts" means all or any Transferring Contracts comprised in the Transferring Guernsey Business at the Guernsey Effective Date, including the Transferring Guernsey Policies and the Transferring Reassurance Contracts (insofar as they cover any part of the Transferring Guernsey Policies, excluding any part covering Residual Guernsey Policies until the transfer of such Residual Guernsey Policies);

"Transferring Guernsey Liabilities" means all or any Transferring Liabilities to the extent arising from or relating to the Transferring Guernsey Business as such business shall exist immediately prior to the Guernsey Effective Time and irrespective of whether the Liabilities and commitments shall arise prior to or following the Guernsey Effective Time, excluding Liabilities under any Residual Guernsey Policies and Residual Guernsey Liabilities until the relevant Subsequent Transfer Date, if any, for such Liabilities;

"Transferring Guernsey Policies" means the Guernsey Insurance Policies comprised in or relating to the Transferring Guernsey Business, together or individually as the context may indicate, excluding any Residual Guernsey Policy until the relevant Subsequent Transfer Date, if any, for each such Residual Guernsey Policy;

"UK Scheme" means the insurance business transfer scheme pursuant to Part VII of the Financial Services and Markets Act 2000 for, *inter alia*, the transfer of certain insurance business of SLFC to SLOC, a copy of which is contained in the Schedule to this Guernsey Scheme, as it may be varied or amended from time to time in accordance with its terms.

- 1.2 Other words and expressions used as defined terms shall bear the meanings given to them in the UK Scheme.
- 1.3 Subject to paragraph 1.2 above and except where the context requires otherwise, words and expressions used in the Guernsey Law or in any regulations made under it shall have the same meanings in this Guernsey Scheme.

Headings

- 1.4 Headings in this Guernsey Scheme are inserted for convenience only and shall not affect its construction.

References

- 1.5 Any reference in this Guernsey Scheme to "the incorporated terms of the UK Scheme" shall be read to mean "the same terms as the terms of the UK Scheme as incorporated into this Guernsey Scheme" in accordance with section 3 of this Guernsey Scheme.
- 1.6 Any reference in this Guernsey Scheme to an enactment, statutory provision or regulations shall be deemed to include a reference to the enactment or statutory provision or those regulations as from time to time amended, consolidated, modified, replaced or re-enacted by any statute or statutory provision.
- 1.7 Any reference to the singular includes a reference to the plural and vice versa. Any reference to he, she or it includes the others.
- 1.8 Any reference to a time of day is a reference, unless otherwise expressly specified, to London time.
- 1.9 Any reference to this Guernsey Scheme shall include the Schedule hereto.

2. Introduction

- 2.1 SLFC Assurance (UK) Limited ("**SLFC**") was incorporated in England and Wales on 9 December 1964 and is a "UK authorised person" as defined in section 105(8) of FSMA.
- 2.2 SLFC has carried on insurance business in the UK and in respect of Insurance Policies governed by Guernsey law or issued to residents of the Bailiwick of Guernsey.
- 2.3 SLFC is not licensed as an insurer in Guernsey but is permitted as a recognised insurer (as defined in Schedule 5 of the Guernsey Law) to conduct insurance business under the Guernsey Law.
- 2.4 Sun Life Assurance Company of Canada (U.K.) Limited ("**SLOC**") was incorporated in England and Wales on 28 July 1969. SLOC will undertake its obligations in respect of the Transferring Guernsey Business in the United Kingdom where it is a "UK authorised person" as defined in section 105(8) of FSMA. SLOC will not be licensed as an insurer in Guernsey but will be permitted as a recognised insurer (as defined in Schedule 5 of the Guernsey Law) to conduct insurance business under the Guernsey Law.
- 2.5 It is proposed that, by the Guernsey Order, the Transferring Guernsey Business shall be transferred to SLOC with effect from the Guernsey Effective Time on the same terms as the terms of the UK Scheme governing the transfer of the Transferring Business to SLOC and as if the Transferring Guernsey Business were part of the Transferring Business as defined in the UK Scheme.
- 2.6 The UK Scheme has the effect that:
- (a) if the transfer of any Transferring Guernsey Policies is sanctioned by the Royal Court pursuant to this Guernsey Scheme with effect from the Guernsey Effective Time, such Policies shall be treated for all purposes of the UK Scheme as if they were Transferring Policies of SLFC with effect from the Effective Time and, to the extent necessary to comply with Part VII of the Financial Services and Markets Act 2000, shall also be transferred pursuant to the terms of the UK Scheme; and

- (b) if the Royal Court does not sanction the transfer of any Transferring Guernsey Policies pursuant to this Guernsey Scheme, despite having the jurisdiction to do so, or if this Guernsey Scheme is sanctioned by the Royal Court but the transfer of any Transferring Guernsey Policies does not become effective by the Guernsey Effective Time, then such Policies shall, with effect from the Guernsey Effective Time, be deemed to be Residual Policies under the UK Scheme and shall be reassured by SLOC as Residual Policies as provided for under the terms of the UK Scheme. Such Policies shall cease to be Residual Policies under the UK Scheme, and shall cease to be so reassured to SLOC, on the relevant Subsequent Transfer Date.
- 2.7 SLFC and SLOC have agreed to appear by Counsel at the hearing of the Application to sanction this Guernsey Scheme and undertake to be bound thereby and to execute all such documents and to do all such acts and things as may be necessary or expedient to be executed or done by it for the purposes of giving effect to this Guernsey Scheme.

3. Incorporation of the UK Scheme

- 3.1 The terms of the UK Scheme shall apply to the Transferring Guernsey Business, Transferring Guernsey Policies, Transferring Guernsey Assets, Transferring Guernsey Contracts, Transferring Guernsey Liabilities, Residual Guernsey Policies, any Residual Guernsey Asset and Residual Guernsey Liabilities in the same manner as they apply to the Transferring Business, Transferring Policies, Transferring Assets, Transferring Contracts, Transferring Liabilities, Residual Policies, Residual Assets and Residual Liabilities and, save as otherwise set out in sections 1 to 7 (inclusive) of, and the Schedule to, this Guernsey Scheme, the terms of the UK Scheme shall be deemed to be part of this Guernsey Scheme as if reproduced herein mutatis mutandis.
- 3.2 This Guernsey Scheme is ancillary to the UK Scheme and is intended to transfer business in respect of Transferring Policies governed by Guernsey law or issued to residents of the Bailiwick of Guernsey and assets and liabilities relating to such business that would not otherwise transfer under the UK Scheme. Nothing in this Guernsey Scheme shall operate so as to prevent or conflict with any transfer provided for by the UK Scheme.

4. Transfer of Business

- 4.1 With effect from the Guernsey Effective Time, the Transferring Guernsey Business, the Transferring Guernsey Assets, the Transferring Guernsey Liabilities and the Transferring Guernsey Contracts shall be transferred to and be vested in SLOC, by the Guernsey Order and without any further act or instrument, and shall be treated as if they were Transferring Business, Transferring Assets, Transferring Liabilities and Transferring Contracts on the incorporated terms of the UK Scheme.
- 4.2 With effect from the Guernsey Effective Time, all rights and obligations whatsoever of SLFC subsisting immediately prior to the Guernsey Effective Time under or by virtue of the Transferring Guernsey Policies shall be transferred to SLOC under this Guernsey Scheme on the incorporated terms of the UK Scheme governing the transfer of Transferring Policies to SLOC. Every person who is a holder of any Transferring Guernsey Policies shall from the Guernsey Effective Time become entitled, to the exclusion of any rights which he may have had against SLFC, to the same rights against SLOC as were available to him against SLFC under such Policies and as regards Transferring Guernsey Policies under which premiums or other sums attributable thereto continue to be payable, shall from the Guernsey Effective Time account to SLOC for any such premium as and when the same becomes due and payable.
- 4.3 The Residual Guernsey Policies shall, pending their transfer to SLOC (whether pursuant to this Guernsey Scheme or otherwise) remain Liabilities of SLFC but shall at all times from and after the Guernsey Effective Time be reassured in their entirety into SLOC on terms consistent with those described in the UK Scheme.

- 4.4 SLOC shall not indemnify SLFC against and shall not be obliged to discharge any Liability of SLFC referred to in paragraph 4.3 above, to the extent that SLFC is entitled to recover the same from any third party (including under any applicable Contract of insurance or reinsurance), unless, and only then to the extent that, SLFC has failed to recover, or SLOC has instructed SLFC in writing not to attempt to recover, any such amount.
- 4.5 On and from each Subsequent Transfer Date, each Residual Guernsey Policy to which such Subsequent Transfer Date applies and all the Residual Guernsey Assets and Residual Guernsey Liabilities relating to such Policy shall, to the extent not previously transferred by the Guernsey Order and without any further act or instrument be transferred to, and be vested in, SLOC, whereupon it shall constitute a Transferring Policy under the UK Scheme.
- 4.6 Any mandate or other instruction in force immediately prior to the Guernsey Effective Time in respect of any of the Transferring Guernsey Policies or Residual Guernsey Policies shall, from the Guernsey Effective Time, continue to be in force as an effective authority to SLOC (in respect of any Residual Guernsey Policies, as agent of SLFC) on the incorporated terms of the UK Scheme.
- 4.7 SLFC shall, from the Guernsey Effective Time, hold the Residual Guernsey Assets (but not the Residual Guernsey Policies) as trustee and on trust absolutely for SLOC on the incorporated terms of the UK Scheme. To the extent that giving effect to such a trust would have the effect of transferring to SLOC any beneficial interest in such Residual Guernsey Asset falling within paragraph (a) of the definition of Residual Guernsey Asset:
- (a) SLFC shall not hold such Residual Guernsey Asset as trustee and in trust for SLOC in accordance with this paragraph 4.7; and
 - (b) SLFC shall pay to SLOC an amount equal to any economic benefit which SLFC receives or obtains in connection with such Residual Guernsey Asset, in consideration for SLOC agreeing to enter into its obligations to SLFC in accordance with paragraph 4.9 below.
- 4.8 With effect from the Guernsey Effective Time (or, in respect of any Residual Guernsey Asset, Residual Guernsey Policies or Residual Guernsey Liabilities, on and from the relevant Subsequent Transfer Date), any proceedings which are pending by or against SLFC in connection with the Transferring Guernsey Business shall be continued by or against SLOC on the incorporated terms of the UK Scheme.
- 4.9 With effect from the Guernsey Effective Time, until the relevant liability is transferred to SLOC, SLOC shall discharge on behalf of SLFC or, failing that, indemnify SLFC from and after the Effective Time against all Residual Guernsey Liabilities and, save as otherwise provided in the UK Scheme, any other cost, claim, loss, damages, Liability or expense (whatsoever) incurred in connection with the Transferring Guernsey Business (other than regulatory capital costs) including, without limitation, the conduct of the trust arrangements under paragraph 4.7, and the conduct of claims under paragraph 4.8, whether the same shall arise prior to or following the Guernsey Effective Time.

5. Guernsey Effective Date

- 5.1 This Guernsey Scheme shall become effective, and the Guernsey Effective Date shall occur simultaneously with the date upon which the last of the following two conditions is met, namely:
- (a) the Guernsey Order by the Royal Court sanctioning this Guernsey Scheme being made; and
 - (b) the UK Scheme in relation to the Transferring Business of SLFC becoming effective in accordance with its terms.

5.2 Unless the Guernsey Effective Time has occurred at 23.59 on or before 30 June 2012 or such later date, if any, as the Royal Court may allow on application of SLFC and SLOC, this Guernsey Scheme shall lapse.

6. Modification of this Guernsey Scheme

6.1 SLFC and SLOC may consent to any amendment, modification or addition to this Guernsey Scheme except the Schedule to this Guernsey Scheme (modifications or additions to which shall be governed by the terms of the UK Scheme) or to any further condition or provision affecting the Guernsey Scheme which the Royal Court may approve or impose prior to the sanction of this Guernsey Scheme.

6.2 After the Guernsey Effective Date, SLOC may vary or amend the terms of this Guernsey Scheme except the Schedule to this Guernsey Scheme (modifications or additions to which shall be governed by the terms of the UK Scheme) with the consent of the Royal Court, including, without limitation, if at any time, the provisions of this Guernsey Scheme, in the opinion of the SLOC Board, prove to be impracticable, inequitable or inappropriate to implement, provided that in any such case:

(a) the Guernsey Financial Services Commission shall be notified of the proposed amendment and has not objected thereto within 30 Business Days to such notification;

(b) an expert, being an independent actuary nominated by SLOC and approved by the United Kingdom Financial Services Authority, has certified that, in his opinion the proposed amendment will not materially adversely affect the interests of the holders of Policies affected by the proposed amendment; and

(c) to the extent any such variation affects any right, obligation or interest of SLFC, SLFC has consented thereto.

If such consent is granted, SLOC may amend the terms of this Guernsey Scheme in accordance with such consent.

6.3 After the Guernsey Effective Date, SLFC may vary or amend the terms of this Guernsey Scheme except the Schedule to this Guernsey Scheme (modifications or additions to which shall be governed by the terms of the UK Scheme) with the consent of the Royal Court provided that such variation or amendment relates solely to Residual Guernsey Policies, Residual Guernsey Assets, Residual Guernsey Liabilities, such part of any Reassurance Contract which relates to Residual Guernsey Policies, or any rights or obligations of SLFC under this Guernsey Scheme, provided that in each such case:

(a) the steps in paragraph 6.2(a) and 6.2(b) have been taken; and

(b) to the extent any such variation affects any right, obligation or interest of SLOC, SLOC has consented thereto.

If such consent is granted, SLFC may amend the terms of the Guernsey Scheme in accordance with such consent.

6.4 Paragraphs 6.1, 6.2 and 6.3 shall not apply, and the consent of the Royal Court shall not be required, in relation to minor and/or technical amendments to the terms of the Guernsey Scheme (including amendments to correct manifest errors) that are agreed in writing by SLOC and SLFC provided that the Guernsey Financial Services Commission has been notified of the same and has confirmed it does not object thereto.

7. Governing Law

7.1 This Guernsey Scheme shall be governed by and construed in accordance with the law of the Island of Guernsey.

SCHEDULE

UK Scheme