

DATED: _____ 2013

**THE CO-OPERATIVE PENSION SCHEME (PACE)
AND BRITANNIA PENSION SCHEME**

UNDERTAKING

Sackers

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THIS DEED is made on

2013

BETWEEN

- (1) **CO-OPERATIVE GROUP LIMITED** a society registered under the Industrial and Provident Act 1965, number IP00525R at the address of 1 Angel Square, Manchester M60 0AG ("**Group**") ; and
- (2) **THE CO-OPERATIVE BANK P.L.C.** a company registered in England, number 00990937 at the address of PO Box 101, 1 Balloon Street, Manchester M60 4EP ("**Bank**").

INTRODUCTION

- (A) As a result of the recapitalisation and/or reorganisation of Bank expected to become effective on or before 31 December 2013, Bank will not be wholly owned by Group and Group's shareholding in Bank could reduce (including to nil) over time.
- (B) Bank is an employer participating in The Co-operative Pension Scheme (Pace) (the "**Scheme**"), which was established by a deed dated 22 March 2006 and which is currently governed by rules expressed to be effective from 7 October 2012 (the "**Rules**").
- (C) Rule 35.2 of the Rules provides that an employer participating in the Scheme will cease to participate if required to do so by Group.
- (D) Group has agreed with Bank that it will not require Bank to cease participation in the Scheme in connection with:
 - (i) the recapitalisation and/or reorganisation of Bank; or
 - (ii) any subsequent reduction in Group's shareholding in Bankand this deed sets out the terms of that agreement and other matters relating to the Scheme and the Britannia Pension Scheme.
- (E) Bank provides guarantees to the Britannia Pension Scheme (currently governed by a deed and rules dated 16 December 2008 (as amended)) and the current principal employer of that scheme is CFS Management Services Limited (registered number 05564787) ("**CFSMS**").

NOW THIS DEED WITNESSES as follows.

1. Until Bank gives notice to cease participation in the Scheme, or the Scheme is demerged or sectionalised as envisaged under Clause 2, Group undertakes to Bank that notwithstanding the recapitalisation and/or reorganisation of Bank and any subsequent reduction in Group's shareholding in Bank (including to nil) it will not use its power under Rule 35.2 of the Rules, or any other power enabling it (including without limitation any power in connection with the amendment or winding-up of the Scheme) to require Bank to cease participation in the Scheme without Bank's prior written agreement unless:
 - (a) Bank is in material breach of its obligations under the Rules and has not remedied such breach within a reasonable time period of being notified of the breach in writing by Group or the trustees of the Scheme. Such period will be agreed between Group and Bank but will not be shorter than 90 days; or
 - (b) Bank's cessation of participation is required by law; or

- (c) following Group giving Bank prior written notice (such notice to be given at least six months in advance of the effective date unless Bank agrees otherwise), all other employers with active members in the Scheme cease participation at the same time as the effective date of the notice or other act ceasing Bank's participation, so that such cessation of participation does not trigger a debt payable by Bank for the purposes of section 75 or 75A of the Pensions Act 1995.
2. If Bank or Group requests, Group and Bank will enter into good faith discussions to reach agreement (and Group will use reasonable endeavours to procure the agreement of the trustees of the Scheme) on the separation of the Scheme, so that Scheme liabilities properly attributable to Bank and an equivalent proportion of the Scheme's assets would be transferred to a separate tax registered pension arrangement nominated or established by Bank or to a segregated section of the Scheme. Neither Bank nor Group shall be obliged to agree to any separation of the Scheme as a result of the good faith discussions if they would be required to make material payments to or in respect of the Scheme in connection with or as a result of the separation (without their agreement to do so). Each of Group and Bank will act in good faith and will provide (and Group will use reasonable endeavours to procure the Scheme trustees provide) such information and such assistance as either of them may reasonably request in connection with a separation of the Scheme. For the purposes of this Clause, "material payments" will not include professional advisers' fees or management or administration time incurred in connection with the discussions.

The liabilities properly attributable to Bank will not include any liabilities which would on 3 November 2013 be attributable to an employer, not being Bank or part of Bank's Group (as defined in Clause 4 below), which after 3 November 2013 ceases to participate in the Scheme, or transfers some or all of its employees who are Scheme members to another entity (other than Bank or Bank's Group), as a result of or in connection with action taken by Group ("**Non-Bank Liabilities**"). This Clause is without prejudice to the rights of any company (not being Bank or part of Bank's Group) to claim from Bank or a company within Bank's Group any amount due to or in respect of the Scheme in accordance with the terms of any legally binding arrangement to which Bank or Bank's Group is a party (including, but without limitation, relating to the provision of personnel) (the "**Pension Payment Exception**"). Provided that the Pension Payment Exception will not extend to any pre-existing agreement relating to sections 75 or 75A of the Pensions Act 1995 to the extent that it would have the effect of attributing Non-Bank Liabilities to Bank or Bank's Group, unless such Non-Bank Liabilities relate to Scheme members who become employed by Bank or Bank's Group in connection with the cessation of participation or transfer referred to above (or whose employment is terminated in these circumstances but who were working in Bank's or Bank's Group's business immediately before such termination).

For the avoidance of doubt a request to enter into good faith discussions under this Clause 2 shall not constitute notice to cease participation or written consent under Clause 1.

3. Notwithstanding clause 4 of the Rules (which provides that the Group will decide the amount of each participating employer's contributions and the dates of payment after considering actuarial advice) and schedule 2, paragraph 2 of The Occupational Pension Schemes (Scheme Funding) Regulations 2005, Group will agree with Bank (such agreement not to be unreasonably withheld or delayed by Bank or Group) the proportion of future service accrual contributions and the proportion of all other contributions due to the Scheme that Bank will make. The proportion of such contributions (which may be different for future service accruals and all other contributions) will be a function of a number of factors including the overall deficit of the Scheme and the liabilities properly attributable to Bank, Group and other employers participating in the Scheme. Group will first involve Bank in discussions with the Scheme trustees and the Pensions Regulator as may be appropriate, including in the determination of on-going funding costs, and deficit recovery costs. If Group and Bank are unable to agree the proportions of contributions payable by Bank, either of them may, by written notice to other, require the matter to be referred for determination to an independent actuary, experienced in the funding of multi-employer occupational pension schemes. The independent actuary will be instructed to decide the proportions of contributions payable by Bank on a fair and equitable basis having regard to the factors referred to above, normal

actuarial practice for determining employer responsibility for contributions in a UK defined benefit pension scheme and such other matters as the independent actuary considers relevant.

The identity of the actuary to be appointed and the terms of his or her appointment will be agreed jointly by both Bank and Group. In the absence of agreement the independent actuary will be appointed, at the written request of either Group or Bank, by the President for the time being of the Institute and Faculty of Actuaries. The independent actuary shall act as an expert and not as an arbitrator and his decision, in the absence of manifest error, shall be final and binding on both Group and Bank. The independent actuary's expenses (and any incurred by the President of the Institute of Actuaries) shall be borne equally by Group and Bank. Bank and Group will provide such information and other assistance to the independent actuary as may be reasonably required by the independent actuary in order to make a determination.

Any reference to the proportion of contributions which Bank will make shall include any proportion of contributions that CFSMS, while not a member of Bank's Group, is obliged to make and which Bank is contractually required to reimburse.

4. If any other entity that is associated with or controlled by Bank ("**Bank's Group**") (together "**Bank Group Employers**") is also an employer participating in the Scheme, the above provisions of this deed will apply in the same way to that employer as they do to Bank (except that agreements will be given by Bank rather than that employer) and each of the Bank Group Employers will have the benefit of this deed under the Contracts (Rights of Third Parties) Act 1999.
5. Group will procure that if and for so long as the principal employer of the Britannia Pension Scheme is an entity outside Bank's Group, such principal employer will not take any action (or omit to take any action) in relation to the Britannia Pension Scheme without Bank's prior agreement (not to be unreasonably withheld or delayed) where such action (or omission) would or might be expected to increase the liabilities of Bank or Bank's Group, or contributions payable by Bank or Bank's Group (including accelerating the timing of such contributions), in connection with the Britannia Pension Scheme.
6. This deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this deed.
7. This deed is governed by, and shall be interpreted according to, the laws of England and Wales.

IN WITNESS of which this deed is made the day and year first above written.

Signed as a **DEED** by)
CO-OPERATIVE GROUP LIMITED)
acting by its attorney:)

.....
Attorney's name

Witness's Signature:
Name:
Address:
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Signed as a **DEED** by)
THE CO-OPERATIVE BANK P.L.C.)
acting by its attorney)

.....
Attorney's name

Witness's Signature:
Name:
Address:
.....
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