

Annex 13 - Pensions

1 Definitions

Capitalised words and expressions used in this Annex 13 (*Pensions*) and not otherwise defined herein are defined in Clause 1.1 (*Definitions*) of this Contract and shall have the same meaning in this Annex 13 (*Pensions*) unless the context otherwise requires. Also in this Annex 13 (*Pensions*):

“**AVC Contributors**” means as defined in paragraph 4.1.4;

“**AWE Pension Scheme**” means the Retirement Benefits Scheme for Employees and New Entrants;

“**Former Employees**” means those individuals employed in the Civil Service of the Crown at or in connection with the Atomic Weapons Establishment at 23.59 hours BST on 31 March 1993 who became employees of the Employing Company immediately afterwards;

“**Former Scheme**” means:

- (a) in relation to those of the Former Employees who were in pensionable service under PNISS immediately prior to 1 April 1993, PNISS;
- (b) in relation to the other Former Employees who were in pensionable service under PCSPS prior to 1 April 1993, PCSPS;

“**New Entrants**” means those individuals who become employees of the Employing Company and are not Employees or Former Employees;

“**PCSPS**” means the Principal Civil Service Pension Scheme 1974 as it applies to Former Employees immediately prior to 1 April 1993 (and not as subsequently varied);

“**Pension Scheme**” has the same meaning as in Part 4 Chapter 1 of the Finance Act 2004;

“**PNISS**” means the Principal Non-Industrial Superannuation Scheme of the United Kingdom Atomic Energy Authority as that scheme applies to Former Employees immediately prior to 1 April 1993 (and not as subsequently varied);

“**Prescribed Rate**” means, in relation to any Former Employee, Employee or a New Entrant, the percentage of pensionable pay prescribed from time to time by the Actuary to the AWE Pension Scheme for the purposes of payments arising from paragraph 4.3;

“**Public Sector Transfer Club**” means the club which is a network of public and private sector occupational pensions schemes, which in general provides that employees who transfer their pension rights between club schemes will receive broadly equivalent service credit in the new scheme;

“**Registration**” means the formal registration of the Pension Scheme with Her Majesty’s Revenue and Customs for the purposes of securing tax advantages in accordance with Part 4, Chapter 2 of the Finance Act 2004;

“**State Second Pension**” means an additional state pension that is related to a person’s annual earnings. Payments are based on the amount of class 1 annual national insurance contributions paid or treated as having been paid on earnings between the national insurance lower earnings limit and the upper accrual point in each tax year; and

“**Trustee Company**” means the AWE Pension Trustees Limited (a wholly-owned subsidiary of the Employing Company).

2 Operation of AWE Pension Scheme and Trustee Company

- 2.1 The Authority established the Trustee Company to act as sole trustee of the AWE Pension Scheme.

- 2.2 The Contractor shall procure that the Employing Company will execute and deliver on the Commencement Date a deed (in a form and in terms approved by the Authority) under which the Employing Company undertakes to pay or transfer or procure to be paid or transferred to the Authority on demand all and any sums and assets (net of any tax payable thereon) which are paid or transferred to or which become payable or transferable to the Employing Company by the Trustee Company or administrator of the AWE Pension Scheme in reduction or elimination of a surplus existing during the continuance of the AWE Pension Scheme or upon its winding-up, such undertaking in favour of the Authority to be secured by such charge or other security as the Authority may require.
- 2.3 In relation to the Trustee Company the Contractor shall procure:
- 2.3.1 throughout the period from the Commencement Date until the expiry or earlier termination of the Contract:
- (i) the Trustee Company is a wholly-owned subsidiary undertaking of the Employing Company;
 - (ii) no alteration is made to the memorandum or articles of association of the Trustee Company without the prior approval of the Authority;
 - (iii) no shares (or interests therein) in the Trustee Company are transferred or otherwise disposed of without the prior approval of the Authority;
 - (iv) save for acting as sole trustee of the AWE Pension Scheme, the Trustee Company does not carry on any business or undertake any other activity without, in either case, the prior approval of the Authority;
 - (v) the board of directors of the Trustee Company comprise:
 - (a) 5 nominees of the Contractor;
 - (b) 5 members of the AWE Pension Scheme (or the representatives of all or any of those members); and
 - (c) one nominee of the Authority
- 2.3.2 the resignation of those directors of the Trustee Company on the expiry or earlier termination of the Contract who are nominees of the Contractor unless otherwise agreed in writing by the Authority.
- 2.4 The AWE Pension Scheme shall be constituted by the trust deeds and rules dated 13 October 1995 (as amended with the approval of the Authority) which provide (*inter alia*) that:
- 2.4.1 no amendment to the AWE Pension Scheme which affects or may affect the benefits under or contributions to the AWE Pension Scheme or which affects or may affect any right, power or discretion (including the giving of any consent) vested in the Authority may, in either case, be made without the consent of the Authority (who for the purpose of this Annex 13 (*Pensions*) shall be represented by DGCP-EF Pensions and CWT AD);
- 2.4.2 the actuary to the AWE Pension Scheme shall be the Government Actuary or a Fellow of the Institute of Actuaries or of the Faculty of Actuaries who is employed in the Government Actuary's Department and shall, in either case, be responsible for the giving of actuarial advice in relation to the AWE Pension Scheme and the carrying-out of periodic actuarial valuations of the AWE Pension Scheme such valuations to be undertaken triennially;
- 2.4.3 no surplus in the AWE Pension Scheme may be used for any purpose (by way of example, but without limitation, reducing the rate of employer's contributions or increasing benefits) without the consent of the Authority;
- 2.4.4 the AWE Pension Scheme may not be discontinued without the approval of the Authority;

2.4.5 in the event of the AWE Pension Scheme being wound-up and subject to Registration, the Trustee Company may, with the consent of the Authority, apply any surplus in the provision of benefits or additional benefits for or in respect of the members of the AWE Pension Scheme and shall pay the balance (if any) to the Employing Company; and

2.4.6 no employer (other than the Employing Company) may be included in the AWE Pension Scheme without the consent of the Authority.

2.5 The Contractor shall procure that:

2.5.1 throughout the period from the Commencement Date until the expiry or earlier termination of this Contract:

- (i) the AWE Pension Scheme conforms in all respects with paragraph 2.4;
- (ii) the sole trustee of the AWE Pension Scheme is the Trustee Company;
- (iii) the Employing Company complies with the terms and provisions of the trust deeds and rules governing the AWE Pension Scheme from time to time;
- (iv) the AWE Pension Scheme is duly administered in accordance with the trust deeds and rules governing the AWE Pension Scheme from time to time and all applicable Laws, regulations and requirements; and
- (v) the AWE Pension Scheme participates in the Public Sector Transfer Club as long as this remains possible;

2.5.2 unless and to the extent otherwise agreed with the Authority, the employment of the members of the AWE Pension Scheme from time to time during the period from the Commencement Date to the expiry or earlier termination of this Contract is contracted-out of the State Second Pension;

2.5.3 the AWE Pension Scheme remains a registered Pension Scheme in accordance with Part 4, Chapter 2 of the Finance Act 2004] and, unless the Authority otherwise agrees, nothing is done or occurs before the expiry or earlier termination of this Contract which may risk de-registration.

2.6 The Contractor shall procure that the Employing Company does not, without the consent of the Authority, establish or participate in any Pension Scheme other than the AWE Pension Scheme.

3 Supply of Copy Documentation

3.1 The Contractor shall procure that:

3.1.1 copies of the annual reports and accounts of the AWE Pension Scheme and reports on any actuarial valuation of the AWE Pension Scheme and any supplementary reports are supplied to the Authority as soon as possible after they become available; and

3.1.2 copies of all and any of the other trust documents of the AWE Pension Scheme are, on request, supplied to the Authority.

4 Arrangements for Former Employees, Employees and New Entrants

4.1 The Contractor shall procure that:

4.1.1 all Former Employees and Employees who are members of the AWE Pension Scheme at the Commencement Date are able to remain within the AWE Pension Scheme;

4.1.2 New Entrants are able to join the AWE Pension Scheme or be granted access to an alternative Pension Scheme as deemed appropriate by the Employing Company and approved by the Authority;

- 4.1.3 the AWE Pension Scheme continues to provide, so far as is consistent with the requirements for Pension Scheme Registration, benefits for each of the Former Employees in respect of his service from 1 April 1993 which are the same (or nearly) as or, if the Authority agrees, which are different from, but at least as good as, the benefits under the Former Scheme. In particular, but without limitation, the AWE Pension Scheme provides for pensions for members of the Former Schemes (whether in payment or in deferment) to increase after the cessation of pensionable service under the AWE Pension Scheme in step with and to the extent corresponding to and upon like terms and conditions as apply from time to time in relation to official pensions (within the meaning of the Pensions (Increase) Act 1971);
- 4.1.4 those Former Employees and Employees who are paying additional voluntary contributions to the AWE Pension Scheme (the “**AVC Contributors**”) at the Commencement Date may continue to pay additional voluntary contributions to the AWE Pension Scheme on terms which are no less favourable than those applying immediately prior to the Commencement Date and those terms under the AWE Pension Scheme are not varied to the detriment of all or any of the AVC Contributors without the prior approval of the Authority;
- 4.2 The Contractor shall procure that, unless otherwise agreed with the Authority, none of the Former Employees or Employees is required at any time before the expiry or earlier termination of this Contract to contribute to the AWE Pension Scheme a greater percentage of pensionable pay than the Former Employees or Employee would have been required to pay to the AWE Pension Scheme as constituted prior to the Commencement Date.
- 4.3 The Contractor shall procure that, disregarding any additional voluntary contributions payable by the members of the AWE Pension Scheme, the Employing Company and the members pay, in aggregate, contributions to the AWE Pension Scheme at the Prescribed Rate.
- 4.4 If at any time the actuary to the AWE Pension Scheme recommends a change to the Prescribed Rate, that rate may be implemented only with the approval of the Authority and, unless and until such approval is given, the rate in force immediately prior to that recommendation being made shall continue to apply.
- 4.5 Save to the extent that the actuary to the AWE Pension Scheme recommends a reduction, the rate may not be reduced without the consent of the Trustee Company.
- 4.6 Arrangements may, subject to the consent of the Authority, be made after the Commencement Date for Former Employees to elect to transfer to, or, as the case may be, join that part of the AWE Pension Scheme which relates to Employees and/or New Entrants.

5 Termination of the Contract

- 5.1 The Contractor undertakes not to and to procure that the Employing Company does not either during the period of eighteen Months preceding the expiry of this Contract or after the Authority has given notice to terminate this Contract, take any action (by way of example, but without limitation, increasing remuneration or changing the policy as to retirement age) that will or may increase all or any of the liabilities under the AWE Pension Scheme without having obtained the prior written consent of the Authority.
- 5.2 Subject to the Contractor complying with those provisions of this Annex 13 (*Pensions*) which relate to the AWE Pension Scheme (including, but without limitation, paragraph 4.3), the Contractor shall not be liable for any deficiency in the AWE Pension Scheme at the expiry or earlier termination of this Contract or on the earlier winding-up of the AWE Pension Scheme or at any other time. The Contractor acknowledges that it neither has any right to or interest in nor is entitled to benefit (directly or indirectly) from any surplus in the AWE Pension Scheme at the expiry or earlier termination of this Contract or on the earlier winding-up of the AWE Pension Scheme.

