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Partner's Share Protection

Technical Guide

Note:

This brochure has been prepared according to Legal & General's interpretation of current tax law and Inland Revenue practice. Tax law and tax rates may change in the future.

INTRODUCTION

The purpose of this guide is to explain in plain English how the Legal & General Partner's Share Protection Scheme operates.

The guide aims to answer the most common questions that you may be faced with whilst dealing with this topic. At the back there are examples of completed documentation.

The guide refers to Partners. By this we mean full equity Partners of which there must always be one in any Partnership. It is important to realise that (except in Scotland) a Partnership is not a separate legal entity, unless it is a Limited liability partnership. A relationship between individuals (the Partners) who carry on business together and for all intents and purposes are treated as self employed individuals.

The guide describes Legal & General's preferred method of Partnership Share Protection utilising Life or Life and Critical Illness policies plus a written Agreement between the Partners.

What is the aim of the Agreement?

A Share Protection arrangement is required to enable Partners to purchase the share of the business from the deceased Partner and to provide the deceased Partner's dependants with a willing buyer and cash instead of an interest in a business.

Legal & General's Partner's Share Protection Plan is designed to ensure that funds are available in the right hands for the purchase of a Partner's share on death. An option is also given to the deceased's personal representatives to sell the deceased's share to the continuing Partners on death (or, if required, upon contracting one of the specified critical illnesses).

An effective Partner's Share Protection Plan should provide:

1. Flexibility.
2. Capital that is available in the right hands at the right time.
3. Tax efficiency.

In order for the agreement to be implemented each Partner must effect a Life or Life and Critical Illness policy which is written in trust for the surviving Partners. A Cross Option Agreement provides the basis for the share purchase and details how the purchase can be made. An example is attached together with an example of the simple trust wording required.

The Cross Option Agreement should be inserted into the Partnership Agreement. One agreement covers all the Partners. The completed trust document will be returned and should be kept with the policy(ies).

Why is an Agreement needed?

Without a Partnership Agreement, the death of a Partner automatically dissolves the Partnership and the estate of the deceased Partner becomes entitled to the value of the deceased Partner's interest in the business.

For the remaining Partner(s) this means either selling the business to pay off the estate, selling assets to pay off the estate and then setting up business as a sole trader or starting a new Partnership with someone else, or coming to an arrangement with the estate to, for example, set up a new Partnership with the late Partner's widow/er.

For the widow/er this might mean an inadequate price to compensate for the late spouse's business interest or being forced into business against his/her will.

Even if there is an agreement to allow the business to carry on after the death of a Partner there may be no money to adequately compensate the estate or the Partners for the loss of a Partner.

None of these alternatives bode well for successful business, or fairness to a deceased's family.

Most surviving Partners in this situation will want to buy the deceased Partner's share in the business and keep control. Only a few will have the right amount of cash at the right time. Some businesses turn to their bankers, but many have existing loans that rule out further advances. Also a crisis, such as the death of a Partner, tends to create uncertainty and instability within a partnership, so banks will be less likely to be willing to make a loan. Serious illness could have a similar impact.

The solution is forward planning to ensure the right amount of cash being available at the right time - life assurance or life and critical illness cover.

How does the Agreement operate?

The Agreement is able to include options on death and, if required, critical illness. The Partners should indicate in the Agreement which events they wish to plan for, which should be reflected in the type of policies being arranged. The agreement operates as follows:

Death - on the death of a Partner their personal representatives have the option to sell their share in the Business to the surviving Partners and the surviving Partners have the option to buy the deceased Partner's share from the personal representatives. If an option is exercised by either party then the other party would be bound to buy or sell, as the case may be.

The Partners can exercise their option to buy the share at any time within three months of the date of death.

The personal representatives can exercise their option to sell the share at any time within six months of the date of death.

And if required:

Critical Illness - Any Partners suffering from one of the specified illnesses or disabilities that results in a payment under a Life and Critical Illness Policy, will have the option to sell their share in the business to the other Partners. This option is available for six months after the date of receipt of the sum assured under the Critical Illness Policy, and not from the date that the critical illness is diagnosed. You should note that there is NOT an option for the other Partners to buy the share from the critically ill Partner. It is not felt appropriate to be able to force the critically ill Partner to sell his/her share, perhaps against his/her will. Although this option could be attractive to the other Partners, it may not be for the Partner who has had only a very mild heart attack and who intends to resume work, fully recovered, after only a few months. The more appropriate agreement is a single option agreement that leaves the critically ill Partner in control, with the option to sell if he/she so desires but with no corresponding

option to buy given to his/her fellow Partners. On payment of a valid Critical Illness claim no further benefits will be payable and the policy will end.

Under the Agreement, each Partner must effect and maintain a Life or Life and Critical Illness Policy under the appropriate trust, to provide the required amount to purchase the share in the business. The beneficiaries of the trust would be the fellow Partners, so that the proceeds from a policy are available for them to buy the Partner's share on death/critical illness.

Why is the Agreement not binding?

Under current legislation a Partnership share will qualify for 100% Business Property Relief for Inheritance Tax. But if the Share Purchase Agreement in force was a binding contract for sale, such as a Buy and Sell Agreement, this valuable Business Property Relief would be lost. This may not be important if the share is to pass on death to the spouse (which is fully exempt from Inheritance Tax). Nevertheless, this exemption should not be relied upon as the spouse may pre-decease the Partner. Consequently, if a binding agreement for sale were in place further inheritance tax planning might be required.

A Cross Option Agreement however is not a binding contract for sale and therefore this method preserves Business Property Relief. This method simply gives the surviving Partners an option to buy the Partner's share and the personal representatives of the deceased have a matching option to sell to the surviving Partners.

What price is to be paid for the Share?

As a starting point the open market value of the business should be used. This would ensure that all parties are fairly treated. This can however lead to certain practical problems, such as how can one be sure that the amount of cover in force equates to the value that would have to be paid? Indeed, the very reference to open-market value means that such a value has to be formally arrived at. This will inevitably cause some delay in the completion of the sale and purchase but perhaps more seriously, it is this issue that often means the whole plan is delayed or even never finalised.

The answer for many Partnerships may be to elect for a fixed value for the business for the purpose of the Cross Option Agreement.

By adopting a fixed price method of valuation, one is merely adopting a method of valuing a share in a business. This method ensures that the appropriate level of life cover can be effected. If death or payment under a critical illness policy occurs within three years of the agreement being established this specified value as written into the Agreement will be the price to pay for the business.

However, if death/payment of a critical illness policy occurs more than three years after the date of the agreement a 'fair value' will be paid. The Fair Value will be the relevant proportion of the market value of the Business as at the date of the Partner's death or the Payment Date (as the case may be). This amount will be determined by an independent auditor or professional valuer who will be appointed by the surviving Partners and the personal representatives of the deceased Partner. If such a valuation is not carried out then the 'Fair Value' shall be the relevant proportion of the said market value as determined by the President for the time being of the Institute of Chartered Accountants in England and Wales.

The arrangement should be reviewed at least every three years. Once the Agreement is set up it should not just be left to rest but constantly reviewed and kept in line with reality. This should also give a good opportunity to review life/critical illness cover. If the specified sum is not reviewed and a new arrangement entered into each three years, then the price to be paid under the Agreement reverts to the 'fair value'.

What if new partners join the Business?

All new Partners should enter into the arrangement by completing a supplemental Agreement. An additional Life or Life and Critical Illness Policy must also be effected and the appropriate trust forms completed.

If Part B of the Trust Documentation had originally been left blank, then the trust will automatically pay out to all the surviving Partners in the firm in shares equivalent to their entitlement to share in income profits. Provided this is not to change, then the Declaration of Trust automatically copes with new partners.

If Part B was originally completed, then the Trustees will need to exercise their power to include the new partner in the default beneficiaries section and possibly to change the Trustees. This is quite simple and Legal & General can provide the necessary forms.

HOW LONG DOES THE AGREEMENT LAST FOR?

The Agreement can last indefinitely but, as mentioned earlier, regular reviews should be carried out.

What are the Taxation effects of the Cross Option Agreement?

Inheritance Tax

Provided that all Partners participate, there will be no Inheritance Tax on the premiums payable as it will be considered to be a bona fide commercial arrangement. If for some reason this were not the case, life policy premiums would usually fall within one or more of the inheritance tax exemptions. The proceeds of the Life/Critical illness policy when written under trust will be payable to the trustees free from Inheritance Tax, since they do not form part of the deceased's estate. The estate of the deceased Partner includes the share of the business and not cash, thus preserving Business Property Relief on the value of the share.

Capital Gains Tax

There is no Capital Gains Tax on death but there could be a liability on beneficiaries of the estate on the increase in value of the share of the business between death and sale although in practice this would be rare.

A Capital Gains Tax liability may arise however, in the event of the sale of a Partner's share due to critical illness. (Indexation and taper relief for business assets will be available in the normal way.)

How are funds to make the purchase provided?

A Life Assurance or Life and Critical Illness plan is written on the Partners own life. The Cross Option Agreement states that each Partner shall, no later than one month after the date of the agreement, effect either a Life policy or a Life and Critical Illness policy. Each policy will be subject to a trust for the other Partners so that, if there is a death or critical illness claim, the proceeds of the plan would be paid to the continuing Partners to enable them to purchase the deceased's/critically ill partner's share of the business. Examples of these simple forms, which are available from Legal & General, and details on how to complete them are included in this guide.

WHO SHOULD PAY THE PREMIUMS?

Each Partner undertakes to pay premiums on his own life. This may not be equitable because of different ages and sums assured and, if possible, the Partners should adjust their drawings to compensate for this.

What type of Policy should be effected?

This will depend upon individual circumstances and what can reasonably be afforded. Since it is often not known when the Partner will retire, Whole of Life Assurance could be suitable.

If critical illness is also to be covered this can usually be arranged as an additional option to a life assurance policy.

What if a Partner leaves the Business?

If a Partner leaves the business the Agreement will normally cease to apply to that Partner.

The policy on his/her life may be appointed to him/her if all the trustees agree, or may be maintained, surrendered or lapsed by the Trustees.

It is possible for outgoing Partners, if they retain assets in the business, to stay in the scheme but this is rare.

What if the sum assured doesn't match the price to be paid for the share as specified in the Agreement?

If there are regular reviews of the Agreement it is unlikely that the proceeds of the life policies will not match the price to be paid for the share. However, of course, if the specified sum is not reviewed and the Agreement not amended, then the price to be paid under the Agreement reverts to the open market value, that is the traditional method of share valuation, and this could mean that the sums assured under the policies may not match the price to be paid. The Agreement should therefore be frequently reviewed.

If the sum assured is less than the Agreed Value the Agreement gives the option for the balance to be paid to the deceased's partners personal representatives in instalments over an agreed period. The Agreement allows specific details to be inserted regarding number and frequency of payments. This amount may or may not bear interest and the appropriate wording should be deleted where necessary.

If however, the sum assured exceeds the agreed value, the surviving Partners can, if they wish, pass the excess to the deceased Partner's personal representatives or keep it themselves. The Agreement caters for either arrangement and the appropriate wording should be deleted.

PARTNERSHIP SHARE

What if the Partners don't wish to specify a value for the Partnership Share to be purchased?

Partners ought to be encouraged to specify a value and, if they don't, then an amendment to the Agreement will be needed in order to revert to the ordinary open market value at the time the purchase is made.

What if there is already a Share Purchase Agreement in Force?

It will be important to encourage the clients to review this agreement and to replace it with the Legal & General Cross Option Agreement if it appears to be more appropriate. The Partnership's legal advisers should ensure there is no conflict between any existing Partnership Agreement and the wording of the Cross Option Agreement.

Other Share Protection Arrangements

You may come across other methods of share protection (for example Buy and Sell and Automatic Accrual) and other ways of writing the life policy (for example Life of Another, Absolute Trust, Joint Life First Death) but they have major disadvantages.

The Buy and Sell agreement With this method the Partners enter into an agreement whereby on retirement or death, the retiring Partner or his estate will sell their share to the remaining partners who, in turn, will buy. The Partners will purchase the share in the proportion in which the remaining share in the business is held. The major disadvantage of the Buy and Sell method is the loss of Business Property Relief so, when a Partner dies, their share of the business may be liable to Inheritance Tax.

Under the Automatic Accrual method, in the event of death the Partner's share is acquired automatically by the survivors. There is no possibility of this not happening. For Inheritance Tax purposes, the estate is treated as receiving the cash value NOT the share in the business. The Share is entitled to Business Property Relief but cash is not. If the beneficiary is not the spouse then they may have to pay Inheritance Tax on this amount.

Life of Another, as a way of writing the life policy, this has its limitations in that it is inflexible when the business dissolves or when new Partners join.

An Absolute Trust is similarly inflexible for businesses where new members join or existing ones leave.

If there are only two participants a joint life policy can be written. Again, there is no flexibility when someone joins or leaves and if one dies the survivor no longer has any life cover.

Note: Similar share protection schemes can be arranged for Directors of Private Limited Companies. See Legal & General's technical guide entitled "Director's Share Protection".

CASE STUDY

Overleaf are completed forms based on the following case study:

John Spencer, Stephen Young and Mark Jones are Partners in Spencers Plant Hire.

The current value of the Partners' interests are:-

John Spencer	£125,000
Stephen Young	£ 75,000
Mark Jones	£ 34,000

Each Partner effects a Term Assurance policy for a sum assured which matches the current value of their share in the business. All three policies are written under trust. One Cross Option Agreement is required.

TRUST PROVISIONS

1. During the Trust Period the Trustees shall have power by deed or deeds revocable (whether by the person(s) making the deed or some other person(s)) during the Trust Period or irrevocable to appoint part or all of the Trust Fund and the income thereof for the benefit of such one or more of the Beneficiaries in such one or more shares and for such interests and subject to such trusts powers and provisions (including protective trusts discretionary trusts or powers operative or exercisable at the discretion of the Trustees or any other persons) as the Trustees shall in their absolute discretion think fit Provided Always that any appointment in favour of the Settlor can only be made by at least two Trustees of whom the Settlor is not one
2. Subject to and in default of any appointment made under paragraph 1 above and subject to paragraph 5 hereof the Trustees shall hold the Trust Fund and the income thereof absolutely for the Default Beneficiary(ies) and if more than one in the percentage shares specified in Section B above and if no shares are specified in equal shares absolutely.
3. If no Default Beneficiary is indicated in Section B above then subject to and in default of any appointment made under paragraph 1 above and subject to paragraph 5 below the Trustees shall hold the Trust Fund and the income thereof absolutely for the person or persons (other than the Settlor) who is or are for the time being partner(s) in the Firm and if more than one in the like percentage in which they would be entitled for the time being to share among themselves in any income profits of the business of the said Firm ignoring the share of the said profits to which the Settlor and any partner(s) precluded from benefitting by paragraph 5 below were entitled.
4. The trusts hereby declared shall carry the intermediate income but section 31 of the Trustee Act 1925 shall not apply and where the Beneficiary entitled to income is a minor the Trustees shall hold such income for the absolute benefit of any such minor Beneficiary as shall be entitled thereto.
5. Notwithstanding the foregoing, no person shall be capable of benefitting under paragraphs 1-3 hereof unless he has settled a contract of life assurance, critical illness or terminal illness contract on his own life on trusts similar to those contained herein for the Beneficiaries not excluded from benefitting by this paragraph 5 and the benefit to which any such person would but for this paragraph 5 be entitled shall accrue to and form part of the entitlement of the person(s) not so excluded by this paragraph 5 from benefitting and if more than one in proportion to the entitlement inter se that they have in the absence of this paragraph 5.
6. The statutory powers of advancement contained in section 32 of the Trustee Act 1925 or if applicable Section 33 of the Trustee Act (Northern Ireland) 1958 shall apply to the trusts hereof with the following variation that is to say the omission in proviso (a) to sub-section (1) of the said section of the words "one-half" of, Section 31 of the Trustee Act 1925 or if applicable Section 32 of the Trustee Act (Northern Ireland) 1958 shall not apply to the trusts of this policy.
7. Any Trustee for the time being (other than the Settlor) being a solicitor or other person engaged in any profession or business shall be entitled to charge and to be paid all usual professional or other charges for business done by him/her or by his/her firm in relation to the trusts thereof.
8. There shall be vested in me a power of removal of any trustee and a power of appointment of a new trustee and or additional trustee(s) during my lifetime and thereafter a power of appointment only shall be vested in the Trustees provided always that a power of removal shall be exercisable only if there are at least two individuals remaining as Trustees of which at least one is not the Settlor.
9. The Trustees may at their discretion and subject to the trusts aforesaid either retain the Policy or deal with the Policy in any manner that they may in their absolute discretion think fit including power (where the Policy so permits but without prejudice to the generality of the foregoing) to surrender the Policy or convert the Policy in accordance with the options available under the Policy. Any new policy or increase or decrease of benefits secured by the Policy or by any new policy or policies which is or are effected under any options which are contained in the Policy shall be subject to the same trusts as are herein declared.
10. Any moneys liable to be invested hereunder may be invested or laid out in the purchase or at interest upon the security of such stocks funds shares securities investments or property of whatsoever nature and wheresoever situate and whether involving liability or not and whether producing income or not (including the improvement repair insurance (in any value and against any risk) rebuilding and decorating of any property for the time being comprised in the property subject to the trusts hereof or the execution of any other works on or for the benefit of any such property) and including any policy or policies of life assurance whether in the name of a nominee or not as the Trustees shall in their absolute discretion think fit to the intent that the Trustees shall have the same full and unrestricted power of investing and transposing investments as if they were absolutely entitled thereto beneficially.

I hereby declare that I intend to pay the premiums under the Policy for the sole benefit of the persons beneficially interested from time to time under this Trust and I hereby irrevocably disclaim any lien or charge on the Policy for the repayment of any such premiums.

It is hereby certified that this instrument falls within Category N of the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987.

This trust shall be governed in by the law of England and Wales.

Full name of Settlor

Name of Settlor:

JOHN SPENCER

Signature of Settlor:

John Spencer

Date:

For Head Office use only

The Settlor should sign but not date. (The date will be completed by Head Office.)

DEED OF ASSIGNMENT

DEED OF ASSIGNMENT/ASSIGNATION							
Do not date	<p>This Assignment/Assignment is made the _____ day of _____ year <i>for Head Office use only</i></p>						
Full Name and address of Grantee (life assured)	<p>Between (name of Grantee) JOHN SPENCER</p> <p>of (address) 112 CRAWLEY STREET, CRAWLEY</p> <p>hereinafter called 'the Grantee' of the one part and the Grantee</p>						
Full name and address of additional Trustees	<p>and (name of first Additional Trustee) STEPHEN YOUNG</p> <p>of (address) 12 THE PARADE, BRIGHTON, BN2 7AG</p> <p>and (name of second Additional Trustee) MARK JONES</p> <p>of (address) 55 GROVE PARK WORTHING</p> <p>and (name of third Additional Trustee) _____</p> <p>of (address) _____</p> <p>and (name of fourth Additional Trustee) _____</p> <p>of (address) _____</p> <p>hereinafter called 'the Trustees' of the other part</p>						
<p>Whereas the Grantee is the Grantee of the Policy(ies) of Assurance (hereinafter called 'the Policy(ies)') specified in the Schedule hereto and holds the Policy(ies) upon the trusts and with and subject to the powers and provisions therein set out</p> <p>and whereas the Grantee has appointed the Trustees as Trustees to receive the moneys payable under the Policy(ies) and is desirous of assigning the Policy(ies) to the Trustees</p> <p>Now this deed witnesseth that the Grantee as Trustee hereby assigns the Policy(ies) unto the Trustees to hold the same unto the Trustees upon the Trusts and with and subject to the powers and provisions upon which and subject to which the Grantee holds the same and the Trustees hereby accept such trusts</p> <p>It is hereby certified that this instrument falls within Category A of the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987.</p> <p>In witness whereof the said parties to these presents have hereunto set their hands the day and year first above written</p> <p>The Schedule herein before referred to</p>							
Do not date	<p>Office: Legal & General Assurance Society Limited Date _____ Policy No. _____ <i>for Head Office use only</i></p>						
Signatures & Witnesses of the above	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of Grantee JOHN SPENCER</p> <p>Signature of Grantee <i>John Spencer</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p> </td> <td style="width: 50%; padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of second Additional Trustee MARK JONES</p> <p>Signature of second Additional Trustee <i>Mark Jones</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p> </td> </tr> <tr> <td style="padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of first Additional Trustee STEPHEN YOUNG</p> <p>Signature of first Additional Trustee <i>S Young</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p> </td> <td style="padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of third Additional Trustee _____</p> <p>Signature of third Additional Trustee _____</p> <p>Witness's signature and address _____</p> </td> </tr> <tr> <td style="padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of fourth Additional Trustee _____</p> <p>Signature of fourth Additional Trustee _____</p> <p>Witness's signature and address _____</p> </td> <td style="padding: 5px;"> <p>Signed and Delivered as a Deed by the said</p> <p>Full name of fourth Additional Trustee _____</p> <p>Signature of fourth Additional Trustee _____</p> <p>Witness's signature and address _____</p> </td> </tr> </table>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of Grantee JOHN SPENCER</p> <p>Signature of Grantee <i>John Spencer</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of second Additional Trustee MARK JONES</p> <p>Signature of second Additional Trustee <i>Mark Jones</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of first Additional Trustee STEPHEN YOUNG</p> <p>Signature of first Additional Trustee <i>S Young</i></p> <p>Witness's signature and address D Smith, 27 THE PARADE, HORSHAM, SUSSEX</p>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of third Additional Trustee _____</p> <p>Signature of third Additional Trustee _____</p> <p>Witness's signature and address _____</p>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of fourth Additional Trustee _____</p> <p>Signature of fourth Additional Trustee _____</p> <p>Witness's signature and address _____</p>	<p>Signed and Delivered as a Deed by the said</p> <p>Full name of fourth Additional Trustee _____</p> <p>Signature of fourth Additional Trustee _____</p> <p>Witness's signature and address _____</p>
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CROSS OPTION AGREEMENT

PARTNERS' CROSS OPTION AGREEMENT

For Approval of Legal Advisers

RECITAL

Date of Agreement

TODAY'S

This Agreement is made the _____ DATE _____ day of _____ year by

Names of Partners who are to be parties to the Agreement

_____ JOHN SPENCER _____ of 112 HIGH STREET, CRAWLEY _____ of the first part
 and _____ STEPHEN YOUNG _____ of 12 THE PARADE, BRIGHTON _____ of the second part
 and _____ MARK JONES _____ of 55 GROVE PARK, WORTHING _____ of the third part
 and _____ of _____ of the fourth part

(hereinafter together called "the Partners" and individually "the Partner")

Full name of Partnership

who are all partners in the firm known as _____ SPENCER'S PLANT HIRE _____ (hereinafter called "the Firm")

Initial the boxes for the double option to operate on death

WHEREAS the Partners desire entering into such share purchase arrangement as is indicated by the Partners' initials in either or both of the boxes in paragraphs A and B below.

A. on the death of a Partner his personal representatives shall have the option to sell his share in the Firm (hereinafter called "Share") to the surviving Partners and the surviving Partners shall have the option to purchase the deceased Partner's Share from his personal representatives on the terms set out in this Agreement

[Partners' initials] JS SY MJ _____

Initial the boxes for the single option to operate on diagnosis of a specified critical illness (if applicable)

B. on a Partner suffering from any illness or disability that gives rise to any payment under any Critical Illness Policy or Terminal Illness Policy (as hereinafter defined) effected by him with Legal & General (as hereinafter defined), the Partner in respect of whom the Critical Illness or Terminal Illness (as hereinafter defined) payment is made shall have the option to sell his Share to the other Partners on the terms set out in this Agreement

[Partners' initials] _____ _____ _____ _____

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

In this Agreement unless the context otherwise requires the singular includes the plural and the masculine the feminine and the neuter and the following terms shall have the following meanings:

"Agreed Value" means

- (a) in relation to the death of a Partner, the Specified Value if the death occurs within three years of the date hereof and otherwise means the Fair Value
- (b) in relation to the Critical Illness or Terminal Illness of a Partner, the Specified Value if the Payment Date (as hereinafter defined) is within three years of the date hereof and otherwise means the Fair Value.

"Critical Illness" means any condition that gives rise to a payment of benefit under any Critical Illness Policy and "Critically Ill" shall be construed accordingly.

"Terminal Illness" means any condition that gives rise to a payment of benefit under any Terminal Illness Policy and "Terminally Ill" should be construed accordingly.

"Critical Illness Policy" means any policy evidencing a contract with Legal and General which provides Critical Illness cover which is effected by a Partner in accordance with the terms of this Agreement.

"Terminal Illness Policy" means any policy evidencing a contract with Legal & General which provides Terminal Illness cover which is effected by a Partner in accordance with the terms of this Agreement.

"Fair Value" means the value specified in the Second Schedule hereto.

"Legal and General" means Legal & General Assurance Society Limited.

"Life Policy" means a contract of life assurance effected by a Partner on his own life in accordance with the terms of this Agreement.

"Payment Date" means the date of receipt of the sum assured paid by Legal & General in settlement of a claim in respect of a Critical Illness under any Critical Illness Policy or a Terminal Illness under any Terminal Illness Policy.

"Policy(ies)" means one or more Life Policies and/or one or more Critical Illness or Terminal Illness Policies as appropriate.

"Relevant Proportion" means the proportion specified in the Third Schedule hereto.

"Specified Value" means the value specified in the First Schedule hereto.

2. AGREEMENT

2.1 Each of the Partners hereby agrees

- (a) to grant options to the other Partners
- (b) to effect one or more
 - (i) Life Policies and/or
 - (ii) Critical Illness Policies and/or Terminal Illness Policies
- (c) to request that the Policies are issued subject to trust for the primary benefit of the other Partners and to maintain the Policies
- (d) to co-operate fully in pursuing any claim under a Critical Illness Policy in respect of the Critical Illness of the Partner, or a claim under a Terminal Illness Policy in respect of the Terminal Illness of the Partner

in the manner hereinafter appearing and in consideration of each of the other Partners agreeing to do the same.

2.2 Without prejudice and subject to all the terms and provisions of the remaining parts and clauses of this Agreement, all of clause 3 and clause 4.1 shall apply only if the boxes in paragraph A. of the Recital have been initialled by the Partners and clause 4.2 shall apply only if the boxes in paragraph B. of the Recital have been initialled by the Partners.

3. CALL OPTION

- 3.1 On the death of any Partner the surviving Partners shall if they together so elect by written notice to the deceased Partner's personal representatives [whether or not they have obtained a grant of representation] within three months from the date of the said death be entitled to purchase the deceased Partner's Share from the deceased Partner's personal representatives for the Agreed Value whereupon the deceased Partner's personal representatives shall sell the said Share to the surviving Partners on the terms hereinafter appearing.
- 3.2 Where on the death of any Partner there is more than one surviving Partner and the option conferred by Clause 3.1 is exercised by all the surviving Partners each of the surviving Partners shall pay to the deceased Partner's personal representatives the Relevant Proportion of the Agreed Value and in consideration of such payment shall become entitled to the Relevant Proportion of the deceased Partner's Share or as near thereto as may be possible
- 3.3 Where on the death of any Partner there is more than one surviving Partner and one or more (but not all) of the surviving Partners wish to exercise the option conferred by Clause 3.1 such of the surviving Partners as do wish to exercise that option may do so and such of the surviving Partners as do not wish to exercise the said option need not do so and in such a case the Relevant Proportion of the Agreed Value of the Share to be paid by each of the surviving Partners exercising the option and the Relevant Proportion of the Share of the deceased Partner to which each of the surviving Partners becomes entitled shall be paid and receivable as if the other Partners did not exist (unless inter se the surviving Partners exercising the option agree otherwise).

4. PUT OPTIONS

- 4.1 On the death of any Partner the deceased Partner's personal representatives shall if they so elect by written notice delivered to the surviving Partners within six months after the date of the said death sell the deceased Partner's Share to the surviving Partners for the Agreed Value and on the exercise of such option the surviving Partners shall purchase the said Share from the deceased Partner's personal representatives on the terms hereinafter appearing provided that this option will not apply where prior to his death the Partner has exercised the option conferred by Clause 4.2 hereof .
- 4.2 In the event of the Critical Illness or Terminal Illness of any Partner that Partner or his legally empowered representative (but only during the lifetime of the Critically Ill or Terminally Ill Partner) shall if an election by written notice to the other Partners is given within six months from the Payment Date sell the Share of the Critically Ill or Terminally Ill Partner to the other Partners for the Agreed Value whereupon the other Partners shall purchase the said Share from the Critically Ill or Terminally Ill Partner on the terms hereinafter appearing.
- 4.3 Where on the death, Critical Illness or Terminal Illness of any Partner there is more than one other Partner and the option conferred by Clause 4.1 or 4.2 is exercised, each of the other Partners (unless inter se they agree otherwise) shall pay to the personal representatives of the deceased Partner or the Critically Ill or Terminally Ill Partner (as the case may be) his Relevant Proportion of the Agreed Value and in consideration of such payment shall become entitled to his Relevant Proportion of the Share of the deceased Partner or the Critically Ill or Terminally Ill Partner (as the case may be) or as near thereto as may be possible.

If the proceeds from the policy are less than the agreed value of the business, the balance will be paid over an agreed period.

State number and frequency

Enter the value that is agreed shall be paid for each of the partner's share of the business & the name of each partner

If the proceeds of the policy exceed the agreed value of the partner's share of the business this excess can either be retained by the surviving partners or paid to the Personal Representative of the deceased.

This section should therefore be deleted as appropriate.

5. LIFE POLICIES, CRITICAL ILLNESS POLICIES AND TERMINAL ILLNESS POLICIES

5.1 Each Partner shall no later than one month after the date of this Agreement effect:

- (a) a Life Policy (where the boxes in paragraph A. of the Recital are initialled) and/or
- (b) a Critical Illness Policy and Terminal Illness Policy (where the boxes in paragraph B. of the Recital are initialled)

with such sum assured under each as the Partners shall agree between them as being appropriate in the context of the commercial arrangement between them and such Policies shall be written subject to a trust under which the Default Beneficiaries (as defined in the said trust) are the partners for the time being of the Firm.

5.2 Each Partner shall pay promptly (or permit to be deducted and paid over to Legal & General from any sums due to him from the Firm) all premiums due from him in respect of the Policies.

5.3 Each Partner on becoming Critically Ill or Terminally Ill will co-operate with the remaining Partners in pursuing the claim under the Critical Illness or Terminal Illness Policy and will be notified immediately on Legal & General settling the claim under the said Policy.

6. SUM ASSURED LESS/GREATER THAN AGREED VALUE

If on the death, Critical Illness or Terminal Illness of any Partner the option under Clause 5.1, 4.1 or 4.2 above is exercised and for any reason the sum assured payable under the Policy(ies) is:

- (a) less than the Agreed Value of that Partner's Share the balance of the Agreed Value shall be paid in 12 MONTHLY [state number and frequency] equal instalments and the outstanding amount from time to time shall [bear interest at _____]/[not bear interest]*
- (b) more than the Agreed Value of that Partner's Share the other Partners shall [~~retain the said excess without any obligation in the case of a deceased Partner to the personal representatives or family thereof and in the case of a Critically Ill or Terminally Ill Partner that Partner~~]/pay over the said excess to the personal representatives of the deceased Partner or the Critically Ill or Terminally Ill Partner (as the case may be) as though the Agreed Value was equal to the sum assured]*
*[delete as appropriate].

7. EFFECT OF AGREEMENT

- 7.1 Nothing in this Agreement shall in any way whatsoever prevent or hinder any Partner from disposing charging encumbering or otherwise dealing in any way with his Share during his lifetime
- 7.2 This Agreement shall:
 - (a) bind the Partners and their respective personal representatives
 - (b) cease to bind any Partner and his personal representatives on the earlier of
 - (i) him ceasing to be a Partner in the Firm
 - (ii) the Firm being dissolved

THE FIRST SCHEDULE
SPECIFIED VALUE

The Specified Value of the Share of each Partner shall be

Partner	Specified Value
JOHN SPENCER	£125,000
STEPHEN YOUNG	£75,000
MARK JONES	£34,000

THE SECOND SCHEDULE
FAIR VALUE

The Fair Value of the Share of each Partner shall be the Relevant Proportion of the market value of the Firm as at the date of the Partner's death or the Payment Date (as the case may be) as determined by an independent auditor or professional valuer agreed between the Partners and appointed by all the Partners including the personal representatives of the deceased Partner or the Critically Ill or Terminally Ill Partner (as the case may be) and in the absence of any such determination the Fair Value of the Share shall be the Relevant Proportion of the said market value as determined by the President for the time being of the Institute of Chartered Accountants in England and Wales.

PLEASE REFER TO COMPLETION NOTES AT THE BACK OF THIS PACK.

THIRD SCHEDULE
RELEVANT PROPORTION

1. Subject to paragraph 2 of this Schedule, the Relevant Proportion in respect of each Partner shall be that proportion of the Firm's income profits to which that Partner is entitled in the accounting period during which
 - (i) in a case where an option under clause 3.1 or 4.1 is exercised, the death referred to in clause 3.1 occurs and
 - (ii) in a case where an option under clause 4.2 is exercised, the Payment Date occurs.
2. In calculating the Relevant Proportion, it shall be assumed, except for the purposes of the Second Schedule to this Agreement, that the Partner in respect of whose Share any option is being exercised, had no right to the income profits of the Firm
 - (a) on or immediately before his death where the option is being exercised under clause 3.1 or 4.1 hereof,
 - (b) on the Payment Date, where the option is being exercised under clause 4.2 hereof

In WITNESS whereof the said Partners have hereunto set their hands the day and year first before written

SIGNED by the said

Name of Partner:

JOHN SPENCER

Signature of Partner:

John Spencer

Witness's signature and address

D Smith
27 THE PARADE
HORSHAM
SUSSEX

SIGNED by the said

Name of Partner:

STEPHEN YOUNG

Signature of Partner:

S Young

Witness's signature and address

D Smith
27 THE PARADE
HORSHAM
SUSSEX

SIGNED by the said

Name of Partner:

MARK JONES

Signature of Partner:

Mark Jones

Witness's signature and address

D Smith
27 THE PARADE
HORSHAM
SUSSEX

SIGNED by the said

Name of Partner:

[Blank Signature Box]

Signature of Partner:

[Blank Signature Box]

Witness's signature and address

[Blank Witness Signature and Address Box]

Each of the Partners should sign and each signature must be witnessed.