

Withdrawing the assets allocable to some or all of the Separate Accounts from the relevant Portfolio and reinvesting such assets in a different investment vehicle including another Portfolio, or in the case of Participating Insurance Company Participants submitting the question as to whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners or life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (ii) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, then the insurer may be required, at the election of the Trust, to withdraw such insurer's Separate Account's investment in the Trust, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Qualified Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Trust, to withdraw its investment in the Trust, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participants under their agreements governing participation in the Trust, and these responsibilities will be carried out with a view only to the interests of contract owners and Qualified Plan participants.

For purposes of this Condition 4, a majority of the disinterested members of the Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but, in no event will the Trust, EVM, OrbiMed or Lloyd George or an affiliate of EVM, OrbiMed or Lloyd George, as relevant, be required to establish a new funding vehicle for any Variable Contract. No Participating Insurance Company will be required by this Condition 4 to establish a new

funding vehicle for any Variable Contract if any offer to do so has been declined by vote of a majority of the contract owners materially and adversely affected by the material irreconcilable conflict. Further, no Qualified Plan will be required by this Condition 4 to establish a new funding vehicle for the Qualified Plan if: (i) a majority of the Qualified Plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (ii) pursuant to documents governing the Qualified Plan, the Qualified Plan makes such decision without a Qualified Plan participant vote.

5. The Board's determination of the existence of a material irreconcilable conflict and its implications will be made known in writing promptly to all Participants.

6. As to Variable Contracts issued by Separate Accounts registered under the 1940 Act, Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners as required by the 1940 Act as interpreted by the Commission. However, as to Variable Contracts issued by unregistered Separate Accounts, pass-through voting privileges will be extended to contract owners to the extent granted by the issuing insurance company. Accordingly, such Participants, where applicable, will vote shares of the applicable Portfolio held in their, Separate Accounts in a manner consistent with voting instructions timely received from Variable Contract owners. Participating Insurance Companies will be responsible for assuring that each Separate Account investing in a Portfolio calculates voting privileges in a manner consistent with other Participants.

The obligation to calculate voting privileges as provided in this Application will be a contractual obligation of all Participating Insurance Companies under their agreement with the Trusts governing participation in a Portfolio. Each Participating Insurance Company will vote shares for which it has not received timely voting instructions, as well as shares it owns through its Separate Accounts, in the same proportion as it votes those shares for which it has received voting instructions. Each Qualified Plan will vote as required by applicable law and governing Qualified Plan documents.

7. As long as the 1940 Act requires pass-through voting privileges to be provided to variable contract owners, EVM, OrbiMed, Lloyd George or any of their affiliates, and any General Account will vote its shares of any Portfolio in

the same proportion of all variable contract owners having voting rights with respect to that Portfolio; provided, however, that EVM, OrbiMed, Lloyd George or any of their affiliates or any insurance company General Account shall vote its shares in such other manner as may be required by the Commission or its staff.

8. The Trust will comply with all provisions of the 1940 Act requiring voting by shareholders, which for these purposes, shall be the persons having a voting interest in the shares of the respective Portfolio, and, in particular, the Trust will either provide for annual meetings (except to the extent that the Commission may interpret section 16 of the 1940 Act not to require such meetings) or comply with section 16(c) of the 1940 Act (although the Trust is not one of the funds of the type described in the section 16(c) of the 1940 Act), as well as with section 16(a) of the 1940 Act and, if and when applicable, section 16(b) of the 1940 Act. Further, the Trust will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

9. The Trust will notify all Participants that Separate Account prospectus disclosure or Qualified Plan prospectuses or other Qualified Plan disclosure documents regarding potential risks of mixed and shared funding may be appropriate. The Trust will disclose in its prospectus that (i) shares of the Trust may be offered to Separate Accounts of both variable annuity and variable life insurance contracts and, if applicable, to Qualified Plans; (ii) due to differences in tax treatment and other considerations, the interests of various contract owners participating in the Trust and the interests of Qualified Plans investing in the Trust, if applicable, may conflict; and (iii) the Trust's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict.

10. If and to the extent that rule 6e-2 and rule 6e-3(T) under the 1940 Act are amended, or proposed rule 6e-3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Trust and/or Participating Insurance