



# Consortium Agreement

LMA3145

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## CONSORTIUM AGREEMENT

### PARTIES

This Consortium Agreement, the Schedule and Table of Security attached hereto and any endorsements hereon (the '**Agreement**') is made by and between:

- (1) the managing agent of the Underwriting Members of Lloyd's whose syndicate number(s) and proportion(s) are shown in the attached Table of Security as the '**Lead Underwriters**' (the '**Consortium Manager**'); and
- (2) the managing agents (as agents on behalf) of the Underwriting Members of Lloyd's whose syndicate numbers and proportions are shown in the attached Table of Security as the '**Following Underwriters**'.

### INTRODUCTION

Whereas:

- (I) the Consortium Manager (as agent on behalf of the Lead Underwriters) and the managing agents of the Following Underwriters (as their agents) have agreed to establish a consortium (the '**Consortium**') comprising the Lead Underwriters and the Following Underwriters (the '**Underwriters**') upon the terms of the Agreement; and
- (II) the Following Underwriters have each agreed to appoint the Consortium Manager and the Consortium Manager has agreed to act, upon the terms of the Agreement, as the administrator of the Consortium (it being noted that the appointment of the Consortium Manager as managing agent of the Lead Underwriters pursuant to the managing agent's agreements between the Lead Underwriters and the Consortium Manager confers on the Consortium Manager all necessary power and authority for the Consortium Manager to act as the administrator of the Consortium in respect of the Lead Underwriters' participation therein).

It is mutually understood and agreed as follows:

### CONSORTIUM MANAGER AUTHORITY

#### SECTION 1

##### ESTABLISHMENT OF CONSORTIUM; EFFECTIVE DATE AND REGISTRATION OF AGREEMENT

- 1.1 The Consortium Manager (as agent on behalf of the Lead Underwriters) and the managing agents of the Following Underwriters (as agents on behalf of the Following Underwriters) hereby agree to underwrite contracts of insurance on a co-insurance basis as a consortium, on and subject to the terms and conditions of the Agreement.
- 1.2 The Agreement and any amendment to the Agreement shall take effect when the Agreement or amendment has been signed by all parties.
- 1.3 Any amendment to the Agreement shall be evidenced in writing and endorsed hereon.
- 1.4 The Consortium Manager shall take all necessary steps to register the Agreement and any amendment to the Agreement in accordance with Lloyd's requirements, and to facilitate the proper processing of risks under the Agreement.
- 1.5 The Consortium Manager shall agree with the Following Underwriters the format of the stamp to be used by the Consortium Manager.

## **SECTION 2**

### **PERIOD**

- 2.1 The Agreement is effective during the period stated in 2.1 of the Schedule unless terminated in accordance with Section 33 and subject to Section 34;
- 2.2 The Agreement shall not be subject to or capable of automatic renewal.

## **SECTION 3**

### **PERSON(S) RESPONSIBLE FOR OPERATION AND CONTROL**

- 3.1 The person(s) responsible for the overall operation and control of the Agreement is(are) named in 3.1 of the Schedule;
- 3.2 The person(s) authorised to bind insurances is(are) named in 3.2 of the Schedule;
- 3.3 The person(s) with overall responsibility for the issuance of documents evidencing insurances bound is(are) named in 3.3 of the Schedule;
- 3.4 The person(s) authorised to exercise any claims authority granted by the Agreement is(are) named in 3.4 of the Schedule;
- 3.5 The Consortium Manager shall notify the Following Underwriters as soon as practicable after it becomes apparent that any of the persons named in 3.1 to 3.4 of the Schedule have ceased, or shall cease, to undertake their respective duties. This includes leave, holiday or sickness where such leave, holiday or sickness is likely to materially impair the Consortium Manager's performance of its duties under the Agreement unless in such case an alternative person will exercise the relevant authority and where that alternative person is named in the relevant sub-section of the Schedule.

## **SECTION 4**

### **GRANT OF AUTHORITY**

- 4.1 The Following Underwriters hereby authorise the Consortium Manager during the period of the agreement to:
  - 4.1.1 solicit and receive submissions, proposals and applications for insurance;
  - 4.1.2 negotiate, accept (or decline) and unconditionally bind insurances and amendments thereto for the Following Underwriters' account, in each case in such manner (subject to the terms of the Agreement) as the Consortium Manager in its sole discretion sees fit;
  - 4.1.3 act on behalf of the Following Underwriters in any of the ways set out in 4.1.3 of the Schedule;
- 4.2 In respect of every insurance bound under the Agreement, the Consortium Manager shall:
  - 4.2.1 issue contract documentation, endorsements or other documents evidencing cover in accordance with Section 19;
  - 4.2.2 ensure the proper processing of all documents evidencing or relating to cover, premiums, return premiums and claims transactions on the Following Underwriters' behalf promptly or where applicable in accordance with such terms as agreed with the Following Underwriters;
  - 4.2.3 handle and settle claims in accordance with Section 20;
  - 4.2.4 ensure all regulatory returns are completed and submitted within the timeframes required;
  - 4.2.5 take all steps as may be necessary or expedient for the purposes of or in connection with fulfilling its obligations for the protection of the interests of the Following Underwriters or for compliance with any applicable laws and regulations, including Lloyd's requirements;
  - 4.2.6 sign or execute on behalf of and as the attorney of each Following Underwriter, in its name or otherwise, all deeds, documents and agreements which the Consortium Manager may consider necessary or expedient for the purposes of or in connection with the business of

the Consortium, including any such document needed for compliance with the provisions of any law or requirements of any appropriate regulatory authority in any part of the world;

- 4.3 Nothing in the Agreement shall grant the Consortium Manager authority beyond that specifically granted by the Agreement nor shall the Consortium Manager act as or hold itself out as having authority on behalf of the Following Underwriters where such authority does not arise or no longer arises under the Agreement;
- 4.4 Nothing in the Agreement shall be construed as creating the relationship of employer and employee between the Following Underwriters and the Consortium Manager;
- 4.5 The Consortium Manager shall comply with all reasonable requests or requirements made in writing by the Following Underwriters in relation to the operation of the Agreement, the insurances bound under the Agreement or (subject to any obligations the Consortium Manager may have pursuant to the Lloyd's Claim Scheme) the claims arising thereunder;
- 4.6 The Consortium Manager shall not take any step(s) or undertake any act(s) or omit to do anything in relation to the services to be provided by it under the Agreement, including failing to act fairly to insureds, which is likely to be detrimental to the reputation of the Following Underwriters;
- 4.7 The Consortium Manager shall at all times act in a professional and responsible manner and exercise its powers and authorities with reasonable skill and care.

## **SECTION 5**

### **DELEGATION OF AUTHORITY**

- 5.1 The grant of authority to bind insurances and issue documents evidencing insurances bound shall not be delegated by the Consortium Manager to any other person, firm or company without the agreement of the Following Underwriters.

## **SECTION 6**

### **OTHER CONDITIONS, REQUIREMENTS AND/OR AMENDMENTS RELATING TO THE OPERATION OF THE AGREEMENT**

- 6.1 The Consortium Manager shall comply with any conditions, requirements and/or amendments to the Agreement as stated in 6.1 of the Schedule or endorsed hereon.

### **SCOPE OF AUTHORITY**

## **SECTION 7**

### **AUTHORISED CLASS(ES) OF BUSINESS AND COVERAGE(S)**

- 7.1 The Consortium Manager is authorised to bind insurances only of the class(es) and for the coverage(s) stated in 7.1 of the Schedule, subject to the exclusions stated in Section 8.

## **SECTION 8**

### **EXCLUDED CLASS(ES) OF BUSINESS AND COVERAGE(S)**

- 8.1 The following shall not be bound other than where specifically provided for in the Schedule:
  - 8.1.1 war and civil war risks;
  - 8.1.2 nuclear risks;
  - 8.1.3 financial guarantee, financial default, bankruptcy or insolvency risks;
  - 8.1.4 master policies issued to a group, association, organisation or club for the benefit of its members under a group or mass marketed programme;
  - 8.1.5 binding authorities, line slips or consortium agreements;
  - 8.1.6 any other class(es) of business and coverage(s) as stated in 8.1.6 of the Schedule.

## **SECTION 9**

### **TERRITORIAL LIMITATIONS**

- 9.1 The Consortium Manager is authorised to bind insurances only for risks located in the territory(ies) stated in 9.1 of the Schedule;
- 9.2 The Consortium Manager is authorised to bind insurances only for insureds domiciled in the territory(ies) stated in 9.2 of the Schedule;
- 9.3 The Consortium Manager is authorised to bind insurances with territorial limits not greater than those stated in 9.3 of the Schedule.

## **SECTION 10**

### **MAXIMUM LIMITS OF LIABILITY OR SUMS INSURED**

- 10.1 The Consortium Manager is authorised to bind insurances only up to the limits of liability or sums insured stated in 10.1 of the Schedule.

## **SECTION 11**

### **PREMIUMS, DEDUCTIBLES AND EXCESSES FOR INSURANCES BOUND**

- 11.1 All gross premiums for insurances bound shall be calculated as stated in 11.1 of the Schedule;
- 11.2 The Consortium Manager shall incorporate deductibles and/or excesses in insurances bound as stated in 11.2 of the Schedule.

## **SECTION 12**

### **GROSS PREMIUM INCOME LIMIT**

- 12.1 The Consortium Manager shall not bind total gross premium income in excess of the limit stated in 12.1 of the Schedule;
- 12.2 The Consortium Manager shall monitor the total gross premium income bound and shall promptly notify the Following Underwriters if it becomes apparent that the total gross premium income is likely to exceed the percentage of the limit stated in 12.2 of the Schedule;
- 12.3 For the purposes of this Section, gross premium income shall be defined as all premiums and additional premiums, less return premiums (before deductions of any commission(s) and excluding any tax or policy or other charges).

## **SECTION 13**

### **PERIOD OF INSURANCES BOUND**

- 13.1 No insurance shall be bound for a period greater than that stated in 13.1 of the Schedule;
- 13.2 Every insurance bound shall incept during the period of the Agreement.
- 13.3 No insurance shall be bound further in advance of its inception date than the number of days stated in 13.3 of the Schedule;
- 13.4 Each insurance bound shall run to its contractual expiry date, unless cancelled or terminated in accordance with the insurance's cancellation or termination provisions.

## **SECTION 14**

### **AUTOMATIC OR TACIT RENEWAL OF INSURANCES BOUND**

- 14.1 No insurance shall be bound which is subject to or is capable of automatic or tacit renewal, unless otherwise agreed in writing by the Following Underwriters or where mandatory by reason of local law or regulation.

## **SECTION 15**

### **PREMIUM FINANCE CONTRACTS**

- 15.1 The Consortium Manager shall not enter into or permit others to enter into premium finance arrangements.

### **COMMISSION(S), FEE(S) AND EXPENSES**

## **SECTION 16**

### **COMMISSION(S) AND FEE(S)**

- 16.1 The maximum deductions allowable by the Consortium Manager in respect of insurances bound under the Agreement shall be as stated in 16.1 of the Schedule.
- 16.2 Other than expenses as detailed in Sub-section 18.1, the Consortium Manager's commission(s) or fee(s) shall be as stated in 16.2 of the Schedule;
- 16.3 Any profit commission(s) shall be calculated in accordance with the formula as stated in 16.3 of the Schedule.

## **SECTION 17**

### **REFUND OF UNEARNED COMMISSION(S)**

- 17.1 The Consortium Manager shall refund to the Following Underwriters any commission(s) or fee(s) allowed in accordance with Sub-sections 16.1 and 16.2 on all cancelled or terminated insurances and return premiums, at the same rates at which such commission(s) or fee(s) was(were) originally allowed to the Consortium Manager.

## **SECTION 18**

### **EXPENSES**

- 18.1 The Consortium Manager shall bear and pay all charges and expenses incurred by the Consortium Manager in the operation of the Agreement except as agreed under Sub-section 23.6.

### **DOCUMENTATION FOR INSURANCES BOUND**

## **SECTION 19**

### **CONTRACT DOCUMENTATION**

- 19.1 The Consortium Manager shall agree the wording of and sign, issue and/or execute contract documentation, including endorsements, in respect of every insurance bound under the Agreement;
- 19.2 Any application forms, proposal forms or contractual wordings set out at 19.2 of the Schedule have been agreed with the Following Underwriters and the Consortium Manager shall not use any variations of these without the agreement of the Following Underwriters.

### **CLAIMS AND COMPLAINTS**

## **SECTION 20**

### **CLAIMS AND RECOVERIES**

- 20.1 The Consortium Manager shall have authority (subject to complying with any procedures stated in 20.1 of the Schedule and the Lloyd's Claims Scheme) on behalf of the Following Underwriters:
- 20.1.1 to receive notice and acknowledge receipt of claims, adjust, agree and settle claims and pursue recoveries (provided that the Consortium Manager shall have no authority to agree



or settle any claim or part thereof on an 'ex gratia' or 'without prejudice' basis or any similar basis without the prior written agreement of the Following Underwriters);

20.1.2 to commence, pursue and defend any proceedings for the purpose of handling a claim or pursuing any recovery, and in connection therewith to accept or authorise others to accept service of proceedings or process and to refer disputes to arbitration or enter into any mediation, alternative dispute resolution or any other negotiation in relation to any disputes;

20.1.3 to instruct adjustors, surveyors, lawyers or any third parties to assist in the handling of any claim, including in the pursuit of any recovery;

20.2 The Consortium Manager shall notify the Following Underwriters promptly of any claim or recovery which gives rise to or is likely to give rise to any litigation.

## **SECTION 21**

### **COMPLAINTS OR PROCEEDINGS**

21.1 The Consortium Manager shall maintain proper records relating to the handling of complaints and shall make the records available to the Following Underwriters in a manner or format(s) agreed by the Following Underwriters;

21.2 The Consortium Manager shall implement and maintain appropriate procedures to ensure that complaints are dealt with in a prompt and reasonable way in compliance with all applicable laws and regulation;

21.3 In all cases the Consortium Manager shall notify the Following Underwriters promptly upon becoming aware of any matter arising out of the operation of or in connection with the Agreement which:

21.3.1 is likely to adversely affect the reputation of the Following Underwriters or Lloyd's;

21.3.2 may affect any legal or regulatory authorisations of Lloyd's or any authorisations which the Following Underwriters have to conduct insurance business; or

21.3.3 may result in litigation or other legal or regulatory proceedings or action being commenced against Lloyd's, the Following Underwriters or the Consortium Manager;

21.4 Where the Consortium Manager is aware of any legal or regulatory proceedings or actions commenced against Lloyd's, the Following Underwriters or the Consortium Manager arising out of the operation of or in connection with the Agreement, the Consortium Manager shall provide the Following Underwriters with full details of the same.

## **REPORTING, RECORDS AND AGGREGATE EXPOSURES**

### **SECTION 22**

#### **RISKS WRITTEN BORDEREAU(X)/REPORTING AND AGGREGATE EXPOSURES**

22.1 The Consortium Manager shall:

22.1.1 record all details of insurances bound under the Agreement;

22.1.2 send or make available to the Following Underwriters in a manner or format agreed by them the risks written details and any adjustments thereto within the maximum number of days from the end of the reporting intervals as stated in 22.1.2 of the Schedule. If there is no activity during a particular reporting interval the Consortium Manager shall provide a statement to that effect;

22.2 The Consortium Manager shall:

22.2.1 record and monitor the aggregate exposures as defined in the 22.2.1 of the Schedule;

22.2.2 send or make available to the Following Underwriters details of the aggregate exposures within the maximum number of days from the end of the reporting intervals stated in 22.2.2 of the Schedule;

22.2.3 not bind total aggregate exposures in excess of the limits stated in 22.2.3 of the Schedule;

- 22.3 The Consortium Manager shall prepare statistical information as stated in 22.3 of the Schedule at the interval(s) stated in 22.3 of the Schedule until every insurance bound under the Agreement has expired or has otherwise been cancelled or terminated and where applicable until all claims have been paid or otherwise resolved. The Consortium Manager shall send or make available to the Following Underwriters such information within the maximum number of days from the end of each interval as stated in 22.3 of the Schedule.

## **SECTION 23**

### **ACCOUNTING BORDEREAU(X)/REPORTING AND SETTLEMENTS**

- 23.1 All premiums, paid claims, outstanding claims and expenses relating to insurances bound under the Agreement shall be allocated and declared to the Agreement;

- 23.2 The Consortium Manager shall report the paid premiums to the Following Underwriters by:

23.2.1 preparing paid premium bordereaux in a manner or format(s) agreed by the Following Underwriters; or

23.2.2 making the accounting information available to Following Underwriters in an alternative manner agreed in advance by the Following Underwriters;

The accounting information shall be reported at the interval stated in 23.2 of the Schedule until every insurance bound under the Agreement has expired or has otherwise been cancelled or terminated;

- 23.3 If the Consortium Manager is responsible for the production of claims bordereaux as indicated in 23.3 of the Schedule, the Consortium Manager shall report paid claims and outstanding claims to the Following Underwriters by:

23.3.1 preparing claims bordereaux in a manner or format(s) agreed by the Following Underwriters; or

23.3.2 making the paid and outstanding claims information available to Following Underwriters in an alternative manner agreed in advance by the Following Underwriters;

The claims information shall be reported at the interval stated in 23.3 of the Schedule until every insurance bound under the Agreement has expired or has otherwise been cancelled or terminated and all such claims have been paid or otherwise resolved;

- 23.4 All paid premium and, if applicable, claims information due from the Consortium Manager shall be sent, or made available, to the Following Underwriters within the number of days from the end of each reporting interval as stated in 23.4 of the Schedule.

If there is no activity during a particular reporting interval, the Consortium Manager shall provide a statement to that effect to the Following Underwriters within the number of days from the end of such reporting interval as stated in 23.4 of the Schedule;

- 23.5 It is acknowledged by the parties that settlements shall be remitted to the Underwriters in accordance with the settlement terms agreed for each insurance bound under the Agreement;

- 23.6 Any fee(s) or charges that are agreed to be reimbursed by the Following Underwriters to the Consortium Manager as a deduction from the premium are as stated in 23.6 of the Schedule and shall be shown as part of the paid premium reporting.

## **SECTION 24**

### **RECORDS, STATISTICAL INFORMATION AND AUDIT/INSPECTION**

- 24.1 The Consortium Manager shall establish and maintain complete records relating to all insurances bound, claims handled and recoveries pursued under the Agreement. Such records shall be and shall remain the property of the Consortium Manager;

- 24.2 The Consortium Manager shall permit Lloyd's or any other regulatory body with jurisdiction over the Following Underwriters, their managing agents or the Consortium Manager to have access to any of its business premises where the Consortium Manager carries on business which is the

subject of the Agreement to inspect and audit the records, statistical information, accounts and business processes relating to the operation of the Agreement. The Consortium Manager shall, unless prohibited by law, inform the Following Underwriters promptly of the results of any such inspection or audit if they indicate that the Consortium Manager is not able to meet its obligations under the Agreement;

- 24.3 The Consortium Manager shall retain all records, including electronic, relating to all insurances bound, claims handled and recoveries pursued under the Agreement for a minimum period of seven (7) years or for such longer period as may be required by local law;
- 24.4 The Consortium Manager shall provide or otherwise make available to the Following Underwriters any information and copies of records as the Following Underwriters may reasonably require from time to time relating to the operation of the Agreement, insurances bound, claims arising and recoveries pursued under the Agreement.

## **ADVERTISING**

### **SECTION 25**

#### **ADVERTISING AND PROMOTIONAL MATERIAL**

- 25.1 The Consortium Manager shall comply with the rules and guidelines issued by Lloyd's from time to time for the use of Lloyd's name and brand;
- 25.2 The Consortium Manager must agree with the Following Underwriters any specific marketing or promotional material to be used in relation to the insurances to be bound under the Agreement or for the promotion of the Consortium, including on any internet website, portal or similar online system;
- 25.3 No party to the Agreement shall use, in connection with the Consortium, the name or corporate branding of any other party to the Agreement or any derivative thereof in any publicity, promotional materials or other marketing documents without the prior written approval of that party. For the avoidance of doubt, this does not apply to any communications with brokers or proposed policyholders referring specifically to the Agreement or the Consortium.

## **COMPLIANCE, REGULATORY AND GENERAL REQUIREMENTS**

### **SECTION 26**

#### **LICENCES AND TAXES**

- 26.1 It is the responsibility of the Consortium Manager in respect of performing its duties under the Agreement:
- 26.1.1 to ensure that it (and where relevant its directors, officers or other individuals named in the Agreement) maintains all necessary licences, authorisations, registrations and qualifications in order to perform its duties under the Agreement and where necessary to ensure that all insurances bound are accepted through a properly licensed intermediary; and
- 26.1.2 to ensure that the amount of any tax(es) due from insureds is checked, agreed, recorded and apportioned correctly and the monies duly processed, including in respect of any refunds of such tax(es) due to insureds;
- 26.2 All applicable tax(es) shall be shown separately on the documentation issued to the insured and not concealed from the insured or the Following Underwriters;
- 26.3 The Consortium Manager shall promptly notify the Following Underwriters of any tax inspection or audit in relation to the Agreement or any insurance bound under the Agreement and of the results of such inspection or audit.

## SECTION 27

### FEE(S) AND CHARGES

- 27.1 Policy, service and other fee(s) and charges applied by third parties and agreed to by the Consortium Manager in relation to insurances bound under the Agreement shall not breach any local law(s) or regulation(s). All such policy, service and other fee(s) and charges shall be shown separately on the documentation issued to the insured and not concealed from the insured or the Following Underwriters.

## SECTION 28

### BUSINESS CONTINUITY

- 28.1 The Consortium Manager shall maintain and implement an adequate business continuity and disaster recovery plan. The plan shall ensure the Consortium Manager's ability to continue to perform its obligations under the Agreement. The Consortium Manager shall carry out regular testing and updating of the plan.

## SECTION 29

### CONFIDENTIALITY

- 29.1 Each party (**'Receiving Party'**) undertakes that it shall not at any time disclose to any person and shall treat as confidential all Confidential Information except as expressly permitted in writing by the party disclosing the Confidential Information or by Sub-section 29.2. For the purposes of this Section 29 "**Confidential Information**" means all information (whether written, oral or in electronic form) concerning the business and affairs of another party that the Receiving Party obtains or receives directly or indirectly as a result of the discussions leading up to the Agreement or the entering into or the performance of the Agreement and shall include (but not be limited to) information of a confidential nature relating to policies and policyholders and the business affairs, strategies, commercial and technical knowledge of that other party. A Receiving Party may only use Confidential Information for the purposes of the Agreement;
- 29.2 A Receiving Party may disclose Confidential Information:
- 29.2.1 to its employees, officers, external auditors, professional advisers, consultants who need to know such information for the purposes of enabling the Receiving Party to carry out its obligations under the Agreement. Each Receiving Party shall use all reasonable endeavours to ensure that its employees, officers, external auditors, professional advisers, consultants to whom it discloses Confidential Information comply with this Section 29;
  - 29.2.2 where required by law, court order or any governmental or regulatory authority provided that, subject to any legal or regulatory obligations that apply to the Receiving Party, the Receiving Party shall give notice to the party disclosing the Confidential Information that it proposes to disclose the Confidential Information;
  - 29.2.3 where the Confidential Information is now in or comes into the public domain otherwise than as a result of a breach of this Section 29; and
  - 29.2.4 where the Confidential Information is already known by the Receiving Party in circumstances when it was not bound by any form of confidentiality obligation;
- 29.3 In the event of a breach or a suspected breach of its obligations under this Section 29 a Receiving Party must notify the party disclosing the Confidential Information promptly and use all reasonable endeavours, at its own cost, to remedy or mitigate the effects of such a breach.

## SECTION 30

### CONFLICTS OF INTEREST

- 30.1 In performing its duties under the Agreement, the Consortium Manager must act in what it believes to be the interests of all the Underwriters and ensure that it has no actual or potential

conflicts of interest with the Following Underwriters which may impair the Consortium Manager's performance of its duties under the Agreement;

- 30.2 The Consortium Manager shall not be treated as contravening Sub-section 30.1 because of the existence of a conflicting interest if the existence, nature and extent of that interest has been fully disclosed to the Following Underwriters and the Following Underwriters have agreed that the Consortium Manager may continue to act for them despite that interest.

## SECTION 31

### COMPLIANCE WITH THE LAW AND FINANCIAL CRIME

- 31.1 Without prejudice to any of the rights or obligations otherwise specified in the Agreement, the Consortium Manager shall comply with all applicable laws for the legal and proper solicitation and handling of all insurances bound or intended to be bound under the Agreement, and shall use its best endeavours to ensure that any other parties with whom it deals in carrying out its duties under the Agreement comply with such laws where applicable;
- 31.2 The Consortium Manager shall not undertake any activity in any way that would constitute a criminal act or which would expose the Following Underwriters to any criminal sanction;
- 31.3 The Consortium Manager shall conduct its business in accordance with all relevant anti-money laundering and international economic or financial sanctions legislation;
- 31.4 The Consortium Manager, on behalf of the Following Underwriters, shall not provide cover or pay any claim or provide benefit hereafter to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Consortium Manager and/or the Following Underwriters to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation;
- 31.5 The Consortium Manager shall not accept, offer or facilitate payment, consideration, or any other benefit, which constitutes an illegal or corrupt practice contrary to any applicable anti-bribery legislation;
- 31.6 The Consortium Manager shall maintain on an ongoing basis appropriate systems, procedures and controls designed to prevent any breach of this Section 31.

## SECTION 32

### DATA PROTECTION

- 32.1 The Consortium Manager shall comply with its obligations under the relevant local data protection legislation, whether as data controller or data processor (as appropriate). The term "**local data protection legislation**" shall include all applicable statutes and regulations in any jurisdiction pertaining to the processing of personal data, including the privacy and security of personal data;
- 32.2 In addition to Sub-section 32.1 the Consortium Manager agrees that, where it processes personal data for any managing agent of a Following Underwriter as such managing agent's data processor under or in connection with the Agreement, it shall:
- 32.2.1 only carry out such processing to the extent reasonably necessary for the performance by it of its obligations under the Agreement (including, without limitation, for the purposes of providing insurance to insureds and prospective insureds and of handling claims subject to and in accordance with the Agreement);
- 32.2.2 only carry out such processing on such managing agent's instructions from time to time;
- 32.2.3 not authorise or allow any sub-contractor to process any such personal data unless and until the Consortium Manager has (i) notified such managing agent of such sub-processing; and (ii) entered into a written sub-contract with the sub-contractor that includes terms relating to the processing of such personal data which are at least as onerous as those in this Section 32;
- 32.2.4 implement appropriate technical and organisational measures to protect such personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised

disclosure or access, and against all other unlawful forms of processing (each a “*personal data security breach*”);

32.2.5 notify the managing agent promptly of it becoming aware of a personal data security breach in accordance with Sub-section 29.3;

32.2.6 at no additional cost, promptly provide such information to the managing agent as it may reasonably require to allow it to comply with its obligations as a data controller under local data protection legislation and the rights of data subjects, including (without limitation) to enable compliance with (i) data subject access rights and (ii) information notices served by any data protection authority;

32.2.7 at no additional cost, keep or cause to be kept full and accurate records relating to all processing of personal data in relation to the Agreement, and shall, during normal business hours, grant the managing agent and any external auditors or other representatives appointed by the managing agent a right of access to, and a right to take copies of, such records and the Consortium Manager shall provide all reasonable assistance to the managing agent in exercising such audit rights. The Consortium Manager’s obligations under this Sub-section 32.2.7 shall continue throughout the term of the Agreement and for a period of seven (7) years thereafter or such other period as the managing agent may reasonably require or as may be required pursuant to any applicable law or regulation; and

32.2.8 take reasonable steps to ensure the reliability of all employees and other personnel that have access to such personal data;

32.3 For the purposes of this Section 32:

“*data controller*” means the person which, alone or jointly with others, determines the purposes and means of the processing of personal data;

“*data processor*” means the person which processes personal data on behalf of the data controller;

“*data subject*” means the identified or identifiable natural person to whom the personal data relates;

“*personal data*” means any information relating to an identified or identifiable natural person, including any information identified as such in the local data protection legislation; and

“*processing*” means, in respect of any information or data, obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including, without limitation, the (i) organisation, adaptation or alteration of the information or data; (ii) retrieval, consultation or use of the information or data; (iii) disclosure of the information or data by transmission, dissemination or otherwise making available; or (iv) alignment, combination, blocking erasure or destruction of the information or data.

## **TERMINATION AND NON-RENEWAL**

### **SECTION 33**

#### **TERMINATION**

##### **Termination with Notice**

33.1 Without prejudice to the terms of Sub-sections 33.2 and 33.3, the Agreement may be terminated at any time by the Following Underwriters or the Consortium Manager giving notice to the other which is not less than the number of days’ notice as stated in 33.1 of the Schedule.

##### **Delivery of Notice**

33.2 Any notice of termination shall be in writing and shall be delivered by hand or sent by pre-paid delivery service providing proof of delivery:

33.2.1 in the case of notice to the Consortium Manager, to the Consortium Manager’s address as stated in the attached Table of Security;

33.2.2 in the case of notice to the Following Underwriters, to the address(es) stated in 33.2.2 of the attached Table of Security;

33.3 Any notice of termination shall be deemed to have been received:

33.3.1 if delivered by hand on signature of a delivery receipt or at the time the notice is left at the proper address; or

33.3.2 if sent by pre-paid delivery service at the time recorded by the delivery service.

#### **Right of Immediate Termination**

33.4 The Following Underwriters or the Consortium Manager (each a “*relevant party*”) may terminate the Agreement at any time with immediate effect by giving written notice in accordance with Sub-section 33.2 upon the occurrence of any of the events set out in Sub-sections 33.4.1 to 33.4.4 inclusive:

33.4.1 a material breach by a relevant party of any of the provisions of the Agreement (in the case of a breach capable of remedy, where the breach has not been remedied within 30 days after notice is given to do so);

33.4.2 the managing agent of any of the syndicates whose numbers are shown in the attached Table of Security ceases to accept new or renewal business on behalf of that syndicate;

33.4.3 the managing agent of any of the syndicates whose numbers are shown in the attached Table of Security is merged with, acquired by or otherwise absorbed by any individual, corporation or other business entity or organisation of any kind;

33.4.4 a relevant party’s ability to carry out its obligations under the Agreement is likely to be materially impaired by reason of circumstances or events other than those stated in Sub-sections 33.4.1 to Sub-sections 33.4.3.

#### **Automatic Termination**

33.5 Unless the Following Underwriters specifically agree to the contrary in writing (except in the case of any of the events described in Sub-sections 33.5.1, 33.5.7 and 33.5.8), the Agreement shall terminate automatically and immediately if the Consortium Manager:

33.5.1 goes into liquidation whether compulsorily or voluntarily (otherwise than a voluntary and solvent liquidation for the purposes of reconstruction or amalgamation pursuant to a scheme previously agreed between the parties);

33.5.2 enters into, or any step is taken (whether by its board of directors or otherwise) towards entering into a composition or arrangement with its creditors or any class of them, including but not limited to, a company voluntary arrangement or a scheme of arrangement;

33.5.3 suffers any action in consequence of default by it in its obligations in respect of any material indebtedness for borrowed moneys;

33.5.4 has an administration order made in respect of it;

33.5.5 stops or threatens to stop generally payment of its debts or ceases or threatens to cease to carry on its business (otherwise than in connection with or in pursuance of a winding-up for the purpose of a reconstruction or amalgamation pursuant to a scheme previously agreed between the parties) or is deemed for the purpose of section 123 of the Insolvency Act 1986 to be unable to pay its debts;

33.5.6 has an administrative receiver or other receiver or other similar official appointed over all (or substantially all) of its undertakings and assets;

33.5.7 fails to have in full force and effect any authorisation, approval, licence, permission or consent necessary in order to perform its obligations under the Agreement; or

33.5.8 receives from the Lloyd’s Franchise Board a written direction or order for immediate termination.

## SECTION 34

### EFFECT OF TERMINATION OR NON RENEWAL

- 34.1 In the event that notice of termination of the Agreement is served by the Following Underwriters or the Consortium Manager under Sub-section 33.1, the Consortium Manager and the Following Underwriters agree that at any time during the period of such notice of termination of the Agreement:
- 34.1.1 the Consortium Manager shall have no authority to extend the period of insurance or cancel and replace under the Agreement insurances already bound without the prior written consent of the Following Underwriters;
  - 34.1.2 the Following Underwriters shall have the right to instruct the Consortium Manager, by written notice sent to the Consortium Manager, to cease forthwith to offer terms, hold covered or bind insurances (other than insurances that the Consortium Manager is legally obliged to bind);
- 34.2 Once the Agreement has terminated (in accordance with Section 33 or by reason of non-renewal of the Agreement) the Consortium Manager shall:
- 34.2.1 except as stated in Sub-section 34.4, have no authority to offer terms, bind insurances, renew, cancel, extend, amend or alter in any way insurances already bound without the prior written consent of the Following Underwriters;
  - 34.2.2 shall continue to perform its obligations in accordance with the terms and conditions of the Agreement until every insurance bound under the Agreement has expired or has otherwise been cancelled or terminated and, in respect of claims arising under such insurances, until all such claims have been paid or otherwise resolved unless otherwise instructed in writing by the Following Underwriters;
- 34.3 Where the Agreement has automatically terminated pursuant to Sub-section 33.5.7 or Sub-section 33.5.8, and/or because the Consortium Manager otherwise ceases to have the required authorisation or right (or any relevant exemption therefrom), the Consortium Manager will not be under the duty referred to in Sub-section 34.2.2 if its obligations under the Agreement would, if performed, cause it to be in breach of any applicable regulatory prohibition or (as the case may be) the terms of any written direction or order for immediate termination received from the Lloyd's Franchise Board. In such circumstances the Consortium Manager shall be under a duty to co-operate with and implement all reasonable instructions from the Following Underwriters to effect the transfer of servicing of the insurances bound by the Consortium Manager to the Following Underwriters or to such parties as the Following Underwriters may appoint;
- 34.4 In the event of non-renewal of the Agreement, with effect from the date of non-renewal, the Consortium Manager shall retain the authority under the Agreement to cancel, amend or alter (but not extend the period of or renew) insurances already bound until every such insurance has expired or has otherwise been cancelled or terminated and, in respect of claims arising under such insurances, until all such claims have been paid or otherwise resolved;
- 34.5 The termination of the Agreement, howsoever arising, shall be without prejudice to the rights and obligations of the parties which may have accrued prior to the date of such termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

## MISCELLANEOUS

## SECTION 35

### GENERAL INTERPRETATION

- 35.1 In the Agreement, words importing the singular shall include the plural and vice versa; headings are included for ease of reference and convenience only and shall not affect the interpretation of the Agreement; and references to "**law**" include references to any applicable, common or customary law and any treaty, constitution, statute, legislation, decree, rule, regulation, judgement, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in any jurisdiction which has the force of law or compliance with which is in accordance with the general practice of such jurisdiction (and "**legal**" shall be interpreted accordingly);



- 35.2 All obligations expressed to be assumed by the Consortium Manager pursuant to the terms of the Agreement relate only to insurances bound under the Agreement or (as the case may be) apply only in respect of the operation of the Agreement.

## **SECTION 36**

### **ENFORCEABILITY CLAUSE**

- 36.1 In the event any portion of the Agreement is found to be invalid or unenforceable under any applicable law, that portion of the Agreement shall be disappplied to the extent necessary to comply with such applicable law, and the remainder of the Agreement shall remain in full force and effect.

## **SECTION 37**

### **NO WAIVER OF RIGHTS**

- 37.1 The rights which the parties each have under the Agreement shall not be prejudiced or restricted by any indulgence or forbearance extended to the other. No waiver by a party in respect of a breach of the Agreement shall operate as a waiver in respect of any subsequent breach.

## **SECTION 38**

### **NO PARTNERSHIP**

- 38.1 Nothing in the Agreement shall constitute or be deemed to constitute a partnership between any of the parties.

## **SECTION 39**

### **RIGHTS OF THIRD PARTIES**

- 39.1 Section 32 (Data Protection) is enforceable by each of the managing agents of the Following Underwriters.
- 39.2 Except as expressly provided in section 39.1, a person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 or other equivalent legislation to enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## **SECTION 40**

### **SEVERAL LIABILITY**

- 40.1 The liability of the Underwriters is several and not joint and is limited solely to the extent of their individual proportions as shown in the attached Table of Security. The Underwriters are not responsible for the subscription of any co-subscribing Underwriter or any other insurer or co-insurer who for any reason does not satisfy all or part of its obligations.

## **SECTION 41**

### **JURISDICTION AND GOVERNING LAW**

- 41.1 The Agreement and any non-contractual dispute or obligation arising out of or in connection with it shall be subject to the law of England and Wales and to the exclusive jurisdiction of the courts of England and Wales.

LMA3145  
16 June 2017

## SCHEDULE

This Schedule forms part of and incorporates by reference LMA3145 (the '**Agreement**'), which Agreement is identified by the Agreement Number and Unique Market Reference Number stated below. For the purposes of interpretation, the contents of this Schedule shall have meaning only as provided for in the Agreement.

<b>Agreement Number:</b>	
<b>Unique Market Reference Number:</b>	
<b>The Consortium Manager:</b>  <b>Address:</b>	
<b>Name of Consortium:</b>	
<b>Consortium Number</b>	<i>(if known)</i>

<b>AGREEMENT SECTION NUMBER</b>	<b>NARRATIVE</b>
<b>Sub-section 2.1</b>	<b>PERIOD:</b> From: <i>{Inception Date}</i>  To: <i>{Expiry Date}</i>  <div style="text-align: right;">Both days inclusive, any time zone</div>
<b>Sub-section 3.1</b>	<b>THE PERSON(S) RESPONSIBLE FOR THE OVERALL OPERATION AND CONTROL:</b>
<b>Sub-section 3.2</b>	<b>THE PERSON(S) AUTHORISED TO BIND INSURANCES:</b>
<b>Sub-section 3.3</b>	<b>THE PERSON(S) WITH OVERALL RESPONSIBILITY FOR THE ISSUANCE OF DOCUMENTS EVIDENCING INSURANCES BOUND:</b>
<b>Sub-section 3.4</b>	<b>THE PERSON(S) AUTHORISED TO EXERCISE ANY CLAIMS AUTHORITY:</b>

Sub-section 4.1.3	GRANT OF AUTHORITY:
Sub-section 6.1	OTHER CONDITIONS, REQUIREMENTS AND/OR AMENDMENTS RELATING TO THE OPERATION OF THE AGREEMENT:
Sub-section 7.1	AUTHORISED CLASS(ES) OF BUSINESS AND COVERAGE(S):  (subject to the terms, conditions, exclusions and limitations of the Agreement)
Sub-section 8.1.6	OTHER EXCLUDED CLASS(ES) OF BUSINESS AND COVERAGE(S):
Sub-section 9.1	RISKS LOCATED IN:
Sub-section 9.2	INSUREDS DOMICILED IN:
Sub-section 9.3	TERRITORIAL LIMITS:
Sub-section 10.1	MAXIMUM LIMITS OF LIABILITY OR SUMS INSURED:
Sub-section 11.1	BASIS FOR THE CALCULATION OF GROSS PREMIUMS:
Sub-section 11.2	DEDUCTIBLES AND/OR EXCESSES:
Sub-section 12.1	GROSS PREMIUM INCOME LIMIT:
Sub-section 12.2	NOTIFIABLE PERCENTAGE OF THE LIMIT NOT TO EXCEED:
Sub-section 13.1	PERIOD OF INSURANCES BOUND: { } months MAXIMUM PERIOD OF INSURANCES BOUND: { } months including odd time
Sub-section 13.3	MAXIMUM ADVANCE PERIOD FOR INCEPTION DATES: { } days
Sub-section 16.1	MAXIMUM DEDUCTIONS ALLOWABLE FOR INSURANCES BOUND:

Sub-section 16.2	THE CONSORTIUM MANAGER'S COMMISSION(S) OR FEE(S):
Sub-section 16.3	PROFIT COMMISSION(S):
Sub-section 19.2	APPLICATION OR PROPOSAL FORMS, WORDINGS, CONDITIONS, CLAUSES, ENDORSEMENTS, WARRANTIES APPLICABLE TO INSURANCES BOUND:
Sub-section 20.1	PROCEDURE FOR THE HANDLING AND SETTLEMENT OF CLAIMS AND PURSUING RECOVERIES:
Sub-section 22.1.2	<p>RISKS WRITTEN REPORTING INTERVAL:  *monthly / quarterly  <i>*(Delete as applicable)</i></p> <p>MAXIMUM NUMBER OF DAYS FOR REPORTING/SUBMISSION OF RISKS WRITTEN BORDEREAU(X):  { } days</p>
Sub-section 22.2.1	BASIS OF MONITORING AGGREGATE EXPOSURES:
Sub-section 22.2.2	<p>AGGREGATE REPORTING INTERVAL:  *monthly / quarterly  <i>*(Delete as applicable)</i></p> <p>MAXIMUM NUMBER OF DAYS FOR REPORTING/SUBMISSION OF AGGREGATE EXPOSURES:  { } days</p>
Sub-section 22.2.3	MAXIMUM TOTAL AGGREGATE LIMIT(S):
Sub-section 22.3	<p>STATISTICAL INFORMATION REQUIRED BY THE FOLLOWING UNDERWRITERS:</p> <p>REPORTING INTERVAL(S):  *monthly / quarterly  <i>*(Delete as applicable)</i></p> <p>MAXIMUM NUMBER OF DAYS:  { } days</p>

Sub-section 23.2	PAID PREMIUM REPORTING INTERVAL: *monthly / quarterly *(Delete as applicable)
Sub-section 23.3	CLAIMS BORDEREAUX/REPORTING (PAID AND OUTSTANDING) TO BE PRODUCED/PROVIDED BY THE CONSORTIUM MANAGER: *Yes / No CLAIMS REPORTING INTERVAL: *monthly / quarterly *(Delete as applicable)
Sub-section 23.4	MAXIMUM PERIOD FOR REPORTING/SUBMISSION OF BORDEREAUX: { } days
Sub-section 23.6	FEE(S) AND CHARGES TO BE DEDUCTED BY THE CONSORTIUM MANAGER:
Sub-section 33.1	NUMBER OF DAYS NOTICE OF TERMINATION: { } days

LMA3145

16 June 2017

Table of Security

<u>CONSORTIUM MANAGER - MANAGING AGENT OF THE LEAD UNDERWRITERS</u>	<u>ADDRESS AND EMAIL ADDRESS</u>	<u>PERCENTAGE</u> %	<u>LEAD UNDERWRITERS - STAMP, REFERENCE, SIGNATURE AND DATE</u>

MANAGING AGENT OF THE LEAD UNDERWRITERS:

VARIABLE REFERENCE REQUIRED:

(Y/N)

Delete as applicable

<u>MANAGING AGENT OF THE FOLLOWING UNDERWRITERS</u>	<u>ADDRESS AND EMAIL ADDRESS</u>	<u>PERCENTAGE %</u>	<u>FOLLOWING UNDERWRITERS - STAMP, REFERENCE, SIGNATURE AND DATE</u>	<u>VARIABLE REFERENCE REQUIRED: Y/N</u>