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SUBJECT: **TRANSFERS OF UNDERWRITING CAPACITY –
CAPACITY MARKET RULES FOR 2004**
SUBJECT AREA(S): Rules relating to capacity auctions and bilateral
transactions in capacity
ATTACHMENTS: Electronic copies only
ACTION POINTS: For information

Summary

Following consultation with market representatives, the Auction Rules and the Bilateral Arrangements Rules for 2004 have now been finalised and are attached together with their accompanying guide. Other than the introduction of the Fourth Auction, the changes that have been made are of an administrative nature and the rules remain substantially unchanged from those in force in 2003.

The rules and the guide attached to this bulletin will also be available on our website at <http://www.lloyds.com/index.asp?ItemId=4233>. They are only available in these electronic forms, but hard copy can be printed off by users as and when required. This arrangement for their distribution was introduced four years ago.

The Capacity Offer Rules and the Conversion Rules for 2004 were published under cover of bulletin Y3325 on 1 June 2004 and are also available on the above web page which now has links to all the capacity transfer rules for 2004.

Capacity season timetable

The auction dates, as set out already in bulletin Y3312 issued on 10 May 2004, are as follows:

Auction 1	7 & 8 September
Auction 2	15 & 16 September
Auction 3	28 & 29 September
Fourth Auction	18 & 19 November

Auction Rules

The Auction Rules have been expanded in order to allow a Fourth Auction to be held on 18 and 19 November 2004. The Fourth Auction, like the Deceased Names Auction (DNA) that it replaces, allows a limited auction in capacity released by the death of members on or after 1 September. The Fourth Auction will also include:

- ◆ disposals of capacity in cases where the approved capacity of a syndicate for 2005 exceeds the amount indicated in the Syndicate's Business Forecast (such disposals being limited to a member's share of the difference between the two amounts);
- ◆ transactions to which the Auction Official has given written consent in order to permit the correction of administrative errors in previous auctions;
- ◆ transactions in capacity on syndicates where the indicative RBC ratio for the syndicate has increased by 10% or more between 22 September and 8 November 2004 or, in the event that a syndicate's RBC ratio is not recalculated on 22 September, between 20 August and 8 November 2004; and
- ◆ transactions in capacity on syndicates where after 24 September 2004 there has been a material change in the syndicate's 2005 business plan as defined in Auction Rule 4(4), that is:
 - a change in the active underwriter; or
 - the introduction of a new class of business; or
 - an increase in the ultimate loss ratio; or
 - a change in utilisation (utilisation being the ratio of a syndicate's premium income to its capacity); or
 - an increase or decrease in business from any one source; or
 - in any other circumstance where the Auction Official confirms that in his view there has been a material change to a syndicate's business plan.

As was the case with the DNA, persons may only subscribe for capacity in the Fourth Auction if they have, or expect to have, sufficient surplus FAL (as at the coming-into-line date, 26 November 2004) to support any further capacity which they acquire. No additional funds can be supplied after the coming-into-line date.

Arrangements following the Fourth Auction

Bulletin 070/2000 of 14 September 2000 set out arrangements put in place by Council which allow capacity to be transferred after the auctions where a member has died so late in the year that it is impracticable for his or her representative to tender capacity in an auction. The arrangements in that bulletin will allow transfers after the Fourth Auction in the same way as they have, in previous years, allowed transfers after the DNA. For the avoidance of doubt, such transfers will not require the consent of the managing agents of relevant syndicates.

Contacts

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Circulation

This bulletin is being sent to all underwriting agents, direct corporate members, market associations, the ALM and recognised accountants.

Richard Miller
Head of Capacity Markets

LLOYD'S

Capacity auctions and bilateral arrangements 2004

Explanatory Guide

This document is not a prospectus or invitation in connection with any solicitation of capital. Neither the Society of Lloyd's, nor the Council, nor the Franchise Board, nor any of their respective employees, members, officers or advisers accept any responsibility or liability for any loss occasioned to any person acting or refraining from acting as a result of any statement, fact, figure or expression of opinion or belief contained in it. Appropriate professional advice is recommended on any steps any person may propose to take on the basis of this document.

Summary of Important Auction Dates

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Summary of Important Auction Dates in 2004

<i>Date</i>	<i>Description</i>
Friday 23 July	Deadline for submitting Form A – Declaration by Issuer Part I – Details of Issuer Part II – Issuers’ Auction Funding Account Details Part III – Representations and Undertakings Part IV – Authorised Persons
Friday 6 August	Software for 2004 Auction System available
Friday 6 August	Deadline for submitting Form D – List of Connected Persons
Tuesday 7 September	Auction 1 (Day One)
Wednesday 15 September	Auction 2 (Day One)
Tuesday 28 September	Auction 3 (Day One)
Friday 8 October	Statements to be issued for Auctions 1-3
Tuesday 26 October	Debit Date for Auctions 1-3
Friday 29 October	Credit Date for Auctions 1-3
Thursday 18 November	Fourth Auction (Day One)
Tuesday 30 November	Statements to be issued for Fourth Auction
Monday 13 December	Debit Date for Fourth Auction
Thursday 16 December	Credit Date for Fourth Auction

EXPLANATORY GUIDE TO CAPACITY ALLOCATION BY AUCTION AND BILATERAL ARRANGEMENTS

1. Introduction

- 1.1 This guide has been designed to assist underwriting agents and other interested parties in understanding the capacity auction process and bilateral arrangements.
- 1.2 This guide is not intended to replace the formal Auction Rules nor the formal Bilateral Arrangement Rules and should therefore only be read in conjunction with those rules. The rules take precedence in all respects over this guide and, in the case of any inconsistency, it is the rules which prevail.
- 1.3 Parties who have reached an agreement to transfer not less than £250,000 of capacity may complete that agreement provided it is registered with the Auction Office as a bilateral arrangement and mandatory interaction with the auction, described at 14 below, takes place.
- 1.4 Auction terminology used in this guide, is as follows:

Tenderer - a member offering to dispose of capacity

Tender order - an offer to dispose of capacity

Subscriber - a person offering to acquire capacity

Subscription order - an offer to acquire capacity

Subscriber's premium - the price a subscriber is willing to pay for each £1 of capacity he offers to acquire

Floor limit - the minimum price a tenderer is prepared to accept for each £1 of capacity he offers to dispose of

Premium - the price a successful subscriber pays for each £1 of capacity

Tender premium - the price a successful tenderer receives for each £1 of capacity disposed of.

- 1.5 Bilateral terminology used in this guide, is as follows:

Nominator – the bilateral party wishing to dispose of capacity on a syndicate

Nominee – the bilateral party wishing to acquire capacity on a syndicate

Bilateral Notice – the initial notification submitted to the Auction Office detailing the proposed transaction between the bilateral parties

Unsatisfied Bids – unsuccessful auction bids that could possibly interact with bilateral arrangements

Mandatory Interaction – the process whereby certain unsatisfied auction bids interact with bilateral arrangements

Bilateral Withdrawal Form – the form submitted to the Auction Office where the interaction with unsatisfied auction bids is 15% or more of the original bilateral arrangement and either party does not wish to continue with the transaction

Bilateral Revision Form – the form submitted to the Auction Office where interaction has taken place and the parties to the bilateral arrangement wish to complete their arrangement up to, but not exceeding, the amount of capacity originally notified to the Auction Office.

- 1.6 If, having read this guide, the Auction Rules and the Bilateral Rules, agents or other Issuers have any queries on the auction process, or the process for bilateral arrangements, they should contact the Auction Office on Lloyd's extension 2200.

2. Outline of the auction

- 2.1 Lloyd's recognises that the auction process has been developed within a unique legal structure and therefore has certain limitations, some of which are identified in the Appendix. Members' agents must ensure that such limitations and potential risk factors are communicated to those intending to participate in the auction process.
- 2.2 Through the auction process participants of syndicates in 2004 may be able to realise any value attaching to the disposal of all or part of their capacity for the 2005 year of account. The auction may also enable participants to gain access to syndicates on which capacity is available. Subscribers who are successful in acquiring capacity will pay the various subscriber premiums stipulated in their subscription orders. For each syndicate the successful subscriber premiums are then added together and divided by the amount of capacity matched on the syndicate - this establishes an average tender premium which is paid to all persons who successfully tendered capacity on the syndicate.
- 2.3 The auctions to be held in 2004 deal only with the entitlement to participate on the 2005 year of account, earlier years of account are not affected.
- 2.4 The auction process will be overseen by the Head of Capacity Markets, Richard Miller, who is known for these purposes as the Auction Official. The Auction Official is responsible for the conduct of all auctions and the interpretation of the Auction Rules. The Members' Services Unit will undertake the day-to-day administration of each auction and bilateral arrangement.

3. Participants, Issuers and qualification procedures

- 3.1 Participation as a tenderer or subscriber in the auction process is generally limited to members, candidates for membership and MAPA operators. All subscribers for capacity on a syndicate must be in compliance with requirements relating to solvency and funds at Lloyd's, and must have complied with any cash calls. Candidates for membership must be able to demonstrate that they have sufficient funds available to meet the requirements set by the Council of Lloyd's to be permitted to underwrite in 2005 up to the total amount of capacity acquired in the 2004 auctions.
- 3.2 Members of syndicates for the 2004 year of account may offer to dispose of their capacity irrespective of their compliance with solvency and other requirements.
- 3.3 If a member dies during 2004, his capacity, including any acquired in 2004 prior to his demise, may be offered for disposal by any members' agent acting on behalf of his estate. See 15 and 16 below for the arrangements for Names who die during the last few months of the year.
- 3.4 Issuers are the only persons permitted to submit orders on behalf of participants in an auction. The following may register as Issuers:

- ◆ members' agents;

- ◆ certain corporate members and corporate candidates;
- ◆ managing agents.

NB Those wishing to act as Issuers in 2004 must register by completing Form A which is set out at the end of the Auction Rules. This must be returned to the Auction Office by Friday 23 July 2004.

- 3.5 Capacity to be acquired pursuant to subscription orders issued on behalf of candidate corporate members, taken on its own or with other capacity already acquired in an auction earlier in 2004, cannot exceed three percent of the latest estimated syndicate stamp figure for 2005 unless the relevant managing agent gives its prior consent by signing and submitting Part I of Form C to the Auction Office.

4. Submission of orders

- 4.1 Orders to subscribe for or tender capacity will only be accepted electronically in the required form.
- 4.2 A subscription order must specify the amount which the subscriber is willing to pay in respect of each £1 of subscribed capacity (i.e. the subscriber premium), and whether the order should roll forward if unsatisfied either in whole or part.
- 4.3 A tender order must specify the minimum premium which the tenderer is willing to receive in respect of each £1 of tendered capacity (i.e. the floor limit), and whether the order should roll forward if unsatisfied either in whole or part.
- 4.4 A Windows application for systems will be available, free of charge, from the Auction Office to all Issuers from 6 August 2004. This will enable Issuers to produce ADEG formatted files containing orders which can be sent electronically to the Auction Office via MarketMail. The address is LLOYDS-AUCTIONOFFICE. Key points are as follows:
- ◆ each order must relate to a single subscriber or tenderer and syndicate;
 - ◆ each subscription/tender order must be in the Lloyd's required format;
 - ◆ orders may only specify capacity in multiples of £1; and
 - ◆ the subscriber's premium and floor limit must be in multiples of 0.1p per £1 of capacity.
- 4.5 Issuers will be provided with the software necessary to enable them to enter orders and produce the necessary bid files. A control sheet, which is produced by the auction software issued by Lloyd's when a bid file is created, should be faxed on the number notified to the Issuer by the Auction Office. The fax lines will be open for this purpose from 9am to 1pm on Day One and from 10am to 2pm on Day Two of the auction. Each faxed sheet will be receipted electronically using the MarketMail service. The receipt will confirm the time at which the order was received which will

determine the priority of the order (see 5.2 below). The Issuer must send the corresponding file to the Auction Office using MarketMail between 9am and 2pm on Day One and 10am and 3pm on Day Two of the auction for the orders to be entered into the auction. The receipt of files will be acknowledged via the MarketMail system.

- 4.6 Prior to each of the first three auctions a list of all the pre- and de-emptions that have been announced and their status in relation to necessary consents will be published by the Auction Office via the Auction Newsletter. Pre- or de-emptions will be finalised later in the season as an integral part of the 2004 business plan approval process. The relevant capacity to be entered in the orders for auctions 1 to 3 will be the underwriting capacity for the 2004 year of account i.e. the 2004 underwriting capacity before making any adjustment for pre-emption or de-emption (thus a £10,000 2004 participation with a 10% proposed pre-emption for 2005 should be entered as £10,000 in the auction).
- 4.7 Prior to the fourth auction, MSU will advise Issuers by an electronic file of any syndicate whose pre or de-emption has been approved. The file will clearly indicate the pre/de-emption percentage to be applied. The Auction/Stamp system will also reflect these changes. Consequently, capacity to be entered in the fourth auction will be the 2004 base capacity adjusted for the pre/de-emption approved in the business planning process. Thus a £10,000 2004 participation with a 10% pre-emption right approved in the business plan approval process should be entered as £11,000 in the fourth auction (subject to the relevant capacity being eligible for the fourth auction).
- 4.8 An order that has been submitted can be revised by a revision notice following the procedure outlined in 4.5 above. However, the revision notice can only be used to "improve" a previous order (i.e. to specify a higher subscriber's premium for a subscription order or a lower floor limit for a tender order). A revision notice cancels the existing order and creates a new order. The priority of the original order will be lost (see 5.2 below). A fee will be payable for each revision of a subscription order, but not a tender order.
- 4.9 When submitting a tender or subscription order, Issuers will have the option of allowing wholly or partially unsuccessful orders to roll over automatically to the next auction (up to and including, but not beyond, Auction 3), to the extent they remain unsatisfied after any mandatory interaction with any proposed bilateral arrangement - see 14 below. Unless the option to roll over is chosen, and assuming no interaction with a proposed bilateral arrangement, unmatched orders will have to be re-submitted into another auction.
- 4.10 To withdraw an order that has been marked to roll over from a previous auction, a withdrawal notice should be submitted by 2pm on Day One of an auction (again, following the procedure outlined in 4.5 above). A fee will be payable for each withdrawal of a subscription order, but not a tender order.
- 4.11 "Trading" in capacity is not permitted. Generally, persons may not, therefore, acquire or dispose of capacity in one auction and then attempt to reverse the transaction, in whole or in part, in a subsequent auction. There are, however, limited exceptions to this, for example, in the case of mandatory offers, where someone has died, where capacity is eligible to be acquired or disposed of in the Fourth Auction to be held in November 2004, and in certain other circumstances where the Auction Official has

given permission. When deciding whether or not something will amount to "trading", account will be taken of capacity acquired or disposed of through bilateral arrangements. However, no account will be taken, when considering a member's bespoke transactions, of any transactions effected by a MAPA in which the member participates.

- 4.12 If an error occurs the Issuer should contact the Auction Office to seek consent for the mistake to be rectified through the auction - see 12 below.

5. The capacity allocation process

- 5.1 The allocation process matches the maximum number of transactions provided that successful subscribers do not pay more than the subscription premium they stated and that successful tenderers receive at least the floor limit they specified.

- 5.2 Fundamentals underlying the process are as follows:

- ◆ in respect of subscription orders, the subscription order specifying the highest subscriber premium will be satisfied first;
- ◆ in respect of tender orders, the tender order specifying the lowest floor limit will be satisfied first;
- ◆ subscription orders offering to pay the same subscriber premium are then, between themselves, ranked by time of receipt with the order having the earliest time of receipt being ranked first;
- ◆ tender orders offering to receive the same floor limit are then, between themselves, ranked by time of receipt with the order having the earliest time of receipt being ranked first;
- ◆ the time of receipt of revision orders, rather than the time of the original order, will be relevant for the matching process;
- ◆ successful subscribers will pay the subscriber premium inserted in their order; and
- ◆ successful tenderers will receive the average tender premium per £ of capacity matched – to calculate the average tender premium, the proceeds paid by the successful subscribers are added together and divided by the amount of capacity matched on the syndicate.

- 5.3 The auction process provides for the maximum amount of capacity to be matched on each syndicate and tenderers all receive the same tender premium. Subscribers should note that the premium they pay for capacity could be higher or lower than the tender premium received by members disposing of capacity.

- 5.4 Issuers need to consider carefully the floor price they place on tender orders. Factors to be taken into account include:

- ◆ A bid with a lower floor price will be ranked before one with a higher floor price, i.e. it will rank earlier in the matching process.
- ◆ If a tender is not matched in the auction it may, depending on its floor price, interact with a bilateral transaction in which case the amount receivable by the tenderer will be determined by the price of the bilateral arrangement, not the auction. However, the price will not be lower than the floor limit stipulated by the tenderer.
- ◆ If a capacity offer has been made, the auction price may be lower than the price of the offer. Auction subscribers may include the maker of the offer since, in normal circumstances, the offeror is permitted to enter the auction and acquire capacity at a price equal to or below the offer price.

6. MAPAs

Leaving a MAPA to underwrite on a bespoke basis

- 6.1 A member of a MAPA who wishes to leave the MAPA to underwrite on a bespoke basis the following year should do so by informing the MAPA operator as early in the year as possible. After the start of the auctions, the MAPA operator may start to make adjustments to the MAPA portfolio through the auction process which may reduce the capacity that the member can take with him. Having left the MAPA, the member may choose to retain some or all of his former capacity on a bespoke basis or instruct his members' agent to tender or subscribe for capacity through the auctions.

Leaving or decreasing a share of a MAPA

- 6.2 A member of a MAPA who wishes to leave a MAPA and cease underwriting or reduce his MAPA commitment may derive value for his MAPA capacity by authorising the MAPA operator to tender the underlying capacity through the auction process. However, if the member is continuing to underwrite on a bespoke basis he may wish to retain certain of his MAPA capacity.

Joining or increasing a share of a MAPA

- 6.3 In respect of a member wishing to join a MAPA, the MAPA operator can accept the member's existing capacity or acquire capacity in the auction on behalf of the member (or a combination of both) and then admit the member to the MAPA with that capacity. The MAPA operator must satisfy himself that the interests of other members of the MAPA are not prejudiced. Similar considerations will apply to a member increasing his participation in a MAPA.

Adjustment of MAPA Portfolio

- 6.3 Subject to the restrictions set out in 7.4 below, a MAPA operator may participate in the auction on behalf of its MAPA members. Funding for the difference, if any, between the value of capacity to be acquired and the value of any capacity disposed of will however need to have been agreed with the MAPA members.

7. Position of members' agents

- 7.1 With effect from midnight on 30 November 2001, the activities of members' agents, when advising their members to become or continue or cease to be a member of a particular Lloyd's syndicate, came within the regulated activities under the Financial Services and Markets Act 2000.
- 7.2 Agents must observe their obligations to achieve the best result for each member both when advising members, administering their MAPA's and also when tendering or subscribing for capacity.
- 7.3 If a members' agent participates in an auction on behalf of a bespoke member, specific authority for all transactions must have been obtained from the member concerned. This authority must include the instructions/authorisations contained in Form B.
- 7.4 The rules only allow a MAPA operator to participate in an auction on behalf of his MAPA members if he does not incur a net expenditure or has the agreement of the MAPA members to incur a net expenditure. Form E suggests some matters which a MAPA operator may wish to include in such an agreement.
- 7.5 A members' agent must assure itself at all times that a participant in the auction is able to meet all obligations arising from the process. A members' agent will be responsible for all amounts payable by the participants for whom it acts in respect of auction fees and payments for capacity acquired.
- 7.6 Members' agents proposing to submit orders must ensure that they have taken proper account of the information available in the market.
- 7.7 Members' agents should be alert to "trading" as this is not permitted (see 4.11 above). Where a member underwrites through two or more members' agents, each agent should make enquiries of the other if the member asks them to act in an auction in respect of a syndicate normally underwritten through the other agent. Special care is needed when a member changes members' agent.
- 7.8 A members' agent must ensure that any fee it proposes to charge its members for the execution of orders on their behalf is reasonable and does not discriminate unfairly between categories of member. Agents will need to take advice on their ability to recover any proposed fees under their agency agreements and should, prior to the first auction, inform all their members of any fees that will be charged.

8. Position of managing agents

- 8.1 With effect from midnight on 30 November 2001, the activities of managing agents in relation to the auctions came within the regulated activities under the Financial Services and Markets Act 2000.
- 8.2 Under Lloyd's existing requirements, managing agents are required to submit syndicate information to supporting members' agents and direct corporate members, usually in the form of business forecasts and plans, so they may make decisions about participating in the syndicate for the next year. Nothing in the auction process alters this position nor will managing agents be obliged to disseminate syndicate business forecasts to a wider audience.

9. Market conduct and disclosure of Relevant Information

Relevant Information

- 9.1 Anyone in possession of Relevant Information, which has not been made publicly available, in respect of a particular syndicate is prohibited from participating in an auction, or from entering into a bilateral arrangement, in respect of that syndicate. An Issuer in this position is unable to act as an Issuer for anybody in respect of capacity on the relevant syndicate.
- 9.2 Relevant Information for auction and bilateral purposes is defined in Auction Rule 20(8) as being, in relation to a syndicate, information which could reasonably be expected to influence the decision of any person whether to become or remain a member of that syndicate, or to increase or reduce his participation in that syndicate. That rule also lists some specific examples of such information. Issuers and auction participants need to make a judgement in each case whether particular information is Relevant Information.
- 9.3 Bilateral arrangements create additional occasions for Issuers and other auction participants to be in possession of Relevant Information. Firm detailed information about a proposed bilateral arrangement will be Relevant Information. It will be for those involved in any discussions to judge the point at which the arrangements are sufficiently firm for their knowledge of the position to constitute Relevant Information. Any Issuer who is a contact for a bilateral arrangement and has also entered bids on the relevant syndicate in the same auction should ensure that their compliance officer is able to respond to queries, if raised, by the regulators on the afternoon of Day Two of an auction. A failure to satisfy any queries of the regulators may result in auction bids being withdrawn.
- 9.4 In the context of capacity offers, those involved in any negotiations which are not public knowledge will be in possession of Relevant Information.
- 9.5 Auction Rule 20(4) imposes an obligation on managing agents to disclose Relevant Information promptly to the members of their syndicate. In addition an electronic version of the disclosure must be sent to the Auction Office via MarketMail, to the following mailbox:-

“ZAUCTION-OFFICE-INFORMATION”

The Auction Office will arrange for all disclosures to be posted to lloyds.com within 3 hours of receipt. Disclosures will be posted in their original form (i.e. unedited by the Auction Office).

- 9.6 Auction News, the newsletter published during the auction season, is designed to draw the market’s attention to disclosures and announcements that are made during that period (see 9.5 and 10.1). Auction News is an appropriate medium for disclosing some Relevant Information (e.g. information about proposed bilateral arrangements). However Auction News should not normally be used on its own as a substitute for other more ‘traditional’ methods e.g. direct notification to members’ agents or press releases.

- 9.7 The Auction Office will accept disclosures up to noon on the working day before an auction starts. If, however, the disclosure is to be listed in the regular Friday Newsletter, then the Auction Office need to be in receipt of the disclosure by 5pm on the Thursday of the week preceding an auction.
- 9.8 The ability to leave a bid to roll forward into the next auction is an administrative convenience. When an Issuer considers the bids to be entered into a particular auction, any bids that have rolled forward should be considered too and the decision taken whether they should, in effect, be re-entered into the auction. If possession of Relevant Information would preclude the submission of a fresh bid then any bids that have rolled forward from previous auctions must be withdrawn.

Market conduct

- 9.9 Issuers and auction participants must, amongst other things, not make, and must ensure that persons who are connected with them, as defined in the Auction Rules, do not make, any statement which it or they know to be misleading or engage in any conduct which creates a false or misleading impression as to the market in or value of a syndicate, in either case with a view to any person subscribing for or tendering capacity or refraining from doing so.
- 9.10 Participation in an auction by directors or staff (or in either case, their spouses) of a members' agent, or a managing agent or by a Lloyd's Council, or Franchise Board member, or a member of the Council's or the Franchise Board's committees, is permitted. Council, Board and relevant committee members and their "connected persons" (as defined in the guidance notes that accompany their Declaration of Interests) should notify the Secretary of the Council of any proposed order in the auctions before making the order. For this purpose they are designated a 'connected person'. Disclosure of all successful orders made by such persons will be made immediately following each auction. This will be in the form of a report listing the connected person, syndicate tendered or subscribed, amount of capacity and code indicating the category of connected person.
- 9.11 Each Issuer must return to the Auction Office by 6 August 2004 Form D, reporting all persons or entities on whose behalf they act in 2004 and with whom they are "connected". Please note that the definition of "connected" was extended in 2000 to include NameCos and SLPs. Further Forms D must be completed and returned to the Auction Office in respect of any persons with whom they subsequently become "connected".
- 9.12 All persons "connected" with a managing agent must obtain prior clearance, from the compliance officer of the managing agent to which he is connected, before any order is submitted on any syndicate of which that managing agent is the managing agent. The compliance officer must not give clearance where he has reason to believe that that person or the managing agent has Relevant Information that has not been made publicly available. The compliance officer must maintain a list of all applications for clearance submitted to him. The list may be requested by the regulators at any time.
- 9.13 Disclosures need only be made in respect of bespoke participations. MAPA participations are exempt.

10. Publication of information during the auction season

Auction News

- 10.1 Auction News is produced by the Auction Office on Fridays throughout the auction season and is the key form of communication between the Auction Office and Issuers. Additional ad hoc issues of the newsletter will be produced should the need arise. It is sent to all Issuers via MarketMail, but is also available to other auction participants on lloyds.com.

Examples of the type of information that might be included in the newsletter are:-

- ◆ practical guidance from the Auction Office on auction procedures
- ◆ links to disclosure items required under Rule 20 "Relevant Information" (see 9.5 above)
- ◆ notice of anticipated pre-/de-emptions.

The newsletter highlights "Relevant Information" that has been posted on lloyds.com but publication of information in this form does not replace the obligation placed on managing agents by rule 20(4) to advise members of their own syndicate promptly of any Relevant Information.

Reports to Issuers

- 10.2 As described in 4.5 above, Issuers must submit orders to the Auction Office electronically. Upon successful loading of each order file, the Auction Office will publish to the relevant Issuer details of the bids that have been entered into the relevant auction. These reports will be sent via MarketMail. Once each auction has concluded, including any interaction with proposed bilateral arrangements, the Auction Office will forward two reports to each Issuer. The first report, the Full Results data file, will contain details of all successful bids submitted in the auction by the relevant Issuer. This will include the following:

- Bid reference
- Type of bid (subscription, tender, revision)
- Syndicate, capacity, price
- Member/MAPA
- Allocation
- Value
- Fee
- Amount due to/from Issuer

In addition, each Issuer will be sent a Rollover Bids data file which will detail any bids wholly or partially unsuccessful in the current auction that are marked to rollover to a subsequent auction.

General information

- 10.3 In order to provide the market with information about the volume and price levels of both subscription and tender orders, the Auction Office will publish in respect of each day a summary schedule of all orders submitted - the "penny bands" report. The Day One report will be made available by MarketMail to all Issuers by 8am on Day Two of an auction. The Day Two report will be made available, together with the summary results and details of unmatched bids reports by 9am on the working day following Day Two of an auction. These reports will also be made available for members on lloyds.com as soon as is practicable.
- 10.4 Information on successful subscriptions and tenders will be provided electronically after each auction. The reports will be published by 1pm on the working day following Day Two of each auction and include:-
- ◆ a summary for all syndicates confirming the volume of capacity matched, the relevant tender premium for each syndicate and the average weighted price achieved for all capacity transferred in that auction;
 - ◆ a "connected" persons report which gives the details of all successful orders made by "connected" persons;
 - ◆ a stakebuilders' report showing the percentage of capacity a member and any connected persons hold on a syndicate if it is above 25%;
 - ◆ the £100k plus report showing the members who have been involved in the successful transfer of £100,000 or more of capacity on a particular syndicate; and
 - ◆ an "all results" file. (Also available, if pre-ordered, in hard copy form at a cost of £50.)
- 10.5 The auction site at <http://www.lloyds.com/index.asp?ItemId=4228> will carry the following:
- ◆ by 8am on Day Two of each auction, the "penny bands" and "current prices summary" reports
 - ◆ by 9am on the working day following Day Two of each auction, the "penny bands", auction summary and unmatched bids reports
 - ◆ on successful completion of the auction, the first four reports referred to in 10.4
 - ◆ editions of Auction News

11. Fees and settlement

- 11.1 Fees (inclusive of VAT) will be levied as follows:

- | | |
|----------------------|-----------------|
| ◆ Subscription order | £10 per order * |
| ◆ Tender order | nil |

◆ Revision of a subscription order	£10 per notice
◆ Withdrawal of a subscription order	£10 per notice
◆ Revision of a tender order	nil
◆ Withdrawal of a tender order	nil
◆ An amendment to a file to delete an order identified by the Auction Office as invalid	£75.00 per order
◆ Successful subscription orders	0.05% of capacity matched
◆ Successful tender orders	0.05% of capacity matched

* No fee will be payable if a subscription order is removed from the auction because of a pre-emption or de-emption confirmed after the submission of the original order - see 4.9 above

- 11.2 The statement and settlement days are set out in the summary of auction dates. On the statement day the Auction Office will provide each Issuer with a detailed statement setting out the net amount payable or receivable in respect of the orders submitted. The statement will contain the order numbers, the syndicate numbers and the capacity allocated, the premiums or tender premiums payable/receivable and the Lloyd's fees. If the net amount is a deficit the Issuer will also be sent an invoice.
- 11.3 Settlement of amounts due in respect of fees and premiums payable/receivable will be the sole responsibility of the Issuer. Each Issuer will therefore need to ensure that it has the necessary systems in place to record which members have placed orders and the relevant details of those orders. Similarly, Issuers will need to develop their own systems for collecting monies required to cover fees and premiums payable. Monies must be held in a client account dedicated to holding auction monies. The distribution and collection of monies for this purpose should be reviewed by the Issuer's auditors.
- 11.4 If amounts due to Lloyd's are not fully paid by the due date, payment to Issuers who are owed monies will be reduced pro rata. Names of defaulters will be published. The defaulters will be pursued (and liable to pay interest at 3% above the base rate of National Westminster Bank plc) and a further settlement in respect of monies subsequently collected will follow. Any delay in payment by an Issuer could result in a delay in settlement to all Issuers.
- 11.5 If an Issuer fails to settle he will not be permitted to enter any further orders until he has made due payment in respect of previous auctions.
- 11.6 Issuers are reminded that, broadly, all monies payable or becoming payable to a participant are assets of the premiums trust fund. As such, they can only be released to a member in accordance with the release mechanisms in the premiums trust deed. For practical purposes therefore a member will only be entitled to receive his auction

proceeds if he has assets at Lloyd's sufficient in value under the PTD release of funds requirements to enable the auction proceeds to be released to him. The rules for MAPA auction proceeds are slightly different in that, broadly, amounts due to a member in respect of the sale of capacity within that MAPA can be released for the acquisition of other capacity within the same MAPA.

12. Rectification of certain errors

- 12.1 The Auction Official has the power to agree that certain administrative errors may be corrected through the auction, by, in appropriate circumstances, permitting an order to be entered to deal with capacity transferred or acquired as a result of an Issuer's error. Issuers may request the Auction Official to exercise this power by completing a form which can be obtained from the Auction Office.

13. Taxation

13.1 *Capital Gains Tax*

Individual Members

Syndicate capacity in the hands of individual members or individual partners in Scottish Limited Partnerships is an asset for capital gains tax purposes. Accordingly any disposal of capacity at auction or under a bilateral arrangement is a chargeable disposal for capital gains tax purposes and may result in a capital gain or a capital loss arising. Where the relevant conditions are satisfied, business taper relief and CGT rollover relief will be available to reduce or defer any capital gains tax charge arising on the disposal of capacity.

Corporate Members

Syndicate capacity in the hands of corporate members comes within the new intellectual property tax regime in Schedule 29 of Finance Act 2002. Accordingly, any disposal of capacity will give rise to a trading receipt or deduction. In board terms, the profit or loss to be brought into account for tax will generally be the proceeds of the sale less the cost of the capacity, as reduced by any tax deductions previously given. If the proceeds are reinvested in a qualifying asset under the new intellectual property tax regime the taxable amount may be rolled into the new asset, so deferring the taxable receipt that would otherwise arise.

Value Added Tax

- 13.2 Customs and Excise have advised us that payments made for capacity allocated under the auction process will be exempt from VAT. Fees charged by Lloyd's in connection with the auction process are also exempt but any services provided by members' agents are standard rated at 17.5%.

14. Bilateral arrangements

- 14.1 Subject to certain conditions, a bilateral arrangement which involves the transfer of not less than £250,000 of capacity on a syndicate is allowed. For this purpose the parties to the arrangement are the person making the participation nomination ("the nominator") and the person in whose favour the participation nomination is being made ("the nominee"). The price agreed to be paid for each £ of capacity is the "bilateral price".

Interaction

- 14.2 Bilateral arrangements are subject to a mandatory form of interaction with the auctions to ensure that certain unsatisfied subscription orders and tender orders are satisfied in priority to the proposed bilateral arrangement. Interaction with the auction involves:-
- ◆ the nominee acquiring capacity (up to the amount of the proposed bilateral arrangement) specified in tender orders which were (partly or wholly) unsatisfied in the auction where the floor limit specified in those orders was below the bilateral price - the nominee will pay the relevant tenderers the bilateral price; and
 - ◆ the nominator "transferring" capacity (up to the amount of the proposed bilateral arrangement) to satisfy subscription orders which were partly or wholly unsatisfied in the auction where the subscriber's premium specified in those orders was higher than the bilateral price - the auction subscribers will pay the subscription premiums stipulated in their orders.
- 14.3 The requirement for interaction with the auction seeks to ensure that those tenderers whose orders have not been satisfied in the auction and who were willing to transfer their capacity for less than the bilateral price may achieve their objective. Equally subscribers whose subscription orders were unsatisfied in the auction and who were willing to pay a higher price than the bilateral price may achieve their objective.

Timetable

- 14.4 Proposed bilateral arrangements must be notified to the Auction Office before 2pm on Day Two of an auction. Appropriately authorised representatives of the bilateral parties must make themselves available, by providing direct phone and fax lines at their own offices, between 2pm and 4.30pm on Day Two to receive the relevant reports and complete any necessary documentation. On completion of the auction, the Auction Office will prepare a report showing unsatisfied subscription orders and tender orders to enable those who have registered bilaterals to assess the maximum interaction to which they might be subject.
- 14.5 If the amount of the potential interaction is greater than 15% of the capacity that is the subject of the proposed bilateral arrangement, the participants to the bilateral arrangement may choose to withdraw the entire arrangement. Notice of withdrawal must be given by 4.35pm on Day Two.
- 14.6 If the parties do not withdraw, they will be advised of the actual extent of the interaction in relation to their arrangement. If there has been no interaction, the arrangement will be validated by the Auction Office. If there has been interaction, the

parties will have until 4.45pm on Day Two to submit a revision notice, otherwise the capacity covered by their arrangement will be reduced to take account of the interaction.

- 14.7 By 9am on the working day after Day Two of an auction the Auction Office will publish results of the auction, the interaction and details of completed bilateral transactions

Size and frequency of transaction

- 14.8 Bilateral arrangements must be for at least £250,000 of capacity. However, smaller holdings of capacity on the same syndicate can be aggregated for the purposes of meeting the £250,000 minimum limit provided the members have a common members' agent. Managing agents are not permitted to take part in or promote such aggregation arrangements. Parties are restricted to a maximum of 25 bilateral arrangements per syndicate in any one year of account, whether as nominator or as nominee.

Disclosure

- 14.9 Parties to bilateral transactions are subject to the same requirements under the auction rules in respect of disclosure and market conduct (see section 9).

Priority and Matching

- 14.10 The matching system generally mirrors that of the auction, but additionally:
- ◆ Bilateral arrangements will interact with unsatisfied subscription orders and tender orders in descending price order (ie the bilateral arrangement with the highest bilateral price will interact first).
 - ◆ Where two bilateral arrangements are submitted at the same price, the obligation to interact will be apportioned on a pro rata basis.
 - ◆ The auction participants whose tenders are matched in this way will be paid an average price produced by pooling the bilateral prices and dividing them pro rata among the matched auction tenders. The resultant average price will be published.
 - ◆ Where a nominator satisfies unsatisfied subscription orders, there will be no averaging of price. Each subscriber will pay the subscriber's premium stipulated in their original order and the proceeds will accrue to the nominator with whom they are matched.
- 14.11 When the Auction Office publishes all the information about auction activity at the end of an auction there may be several different prices disclosed for any syndicate. These may include the tender price resulting from the auction, the average price paid to auction tenderers interacting with any bilaterals and the prices at which any bilateral arrangements have taken place.

Forms and Administration

- 14.12 At an early stage parties considering entering a bilateral arrangement should identify a contact who will act for both parties. The contact, who will be identified on the initial notice, must establish certain essential communication links. In practice any Issuer will have the necessary links in place to send and receive messages and deal with any transfers of funds necessitated by interaction with the auction. The contact will need to have arranged with the Auction Office:-
- (i) to be issued with a unique fax number;
 - (ii) to receive reports by MarketMail;
 - (iii) the bank account that should receive any payments that may become due to the nominator from the Auction Settlement Account.
- 14.13 A bilateral notice describing the proposed bilateral arrangement should be submitted to the Auction Office before 2pm on Day Two of an auction. This must take the form of a completed Form BN (if the nominator or the nominee is more than one person, a schedule must be attached giving details (see forms BN/BSG and BN/BTG)). The form must be faxed to the Auction Office using the unique number issued to the contact. The Auction Office will automatically confirm receipt. A further confirmation will be sent to the contact once the form has been checked.
- 14.14 When faxing bilateral forms to the Auction Office, the contact should insert a reference at the top of every submission as follows:-
- BN/(Issuer ID)/(Serial No) e.g. **BN9999/01**
- This reference will identify uniquely each particular bilateral arrangement. Contacts should ensure that the reference is included on all relevant forms i.e. Bilateral Notice (BN), Bilateral Withdrawal (BW) and Bilateral Revision (BR).
- 14.15 Parties to a bilateral arrangement need to ensure that they have suitably authorised representatives available (via telephone and fax lines) to speak to, and complete and return relevant documentation to, the Auction Office between 2pm and 4.30pm on Day Two of the auction. The report showing the level of “unsatisfied” bids will enable the parties to assess whether the level of interaction with their bilateral might be greater than 15%. If the report shows a possible level of interaction greater than 15% the parties have the option to withdraw the bilateral arrangement.
- 14.16 If either party to the bilateral decides that, in view of the potential interaction being greater than 15% they wish to withdraw, a withdrawal notice, Form BW, must be submitted to the Auction Office by 4.35pm on Day Two. The signature of only one of the parties is necessary on this form
- 14.17 The Auction Office will then run the interaction with the auction and will advise the representatives of the extent of interaction, if any, between the unsatisfied auction bids and the bilateral arrangement.
- 14.18 The representatives will then need to decide whether they are content for the bilateral arrangement to be reduced by the amount of the interaction. If the parties take no further action the reduced bilateral arrangement will be validated by the Auction Office. In addition to their interaction obligations the bilateral parties may elect to

complete their original arrangement up to, but not exceeding, the amount of capacity originally notified to the Auction Office. The intention to proceed on this basis must be notified to the Auction Office by 4.45pm on Day Two of the auction. A Bilateral Revision form, (Form BR), which needs to be signed by both parties, must be used

14.19 If the bilateral has interacted with the auction so that tenders from the auction have been satisfied, the nominee under the bilateral arrangement will receive an invoice and must provide the necessary funds by the relevant auction settlement date. Any subscription premiums due to the nominator from auction participants will be paid into the account identified by the contact.

14.20 The fees for bilateral arrangements are as follows:-

◆	Bilateral Arrangement fee (payable by both parties)	£10
◆	Bilateral Withdrawal fee (payable by both parties)	£75
◆	Bilateral Revision fee	nil
◆	Successful bilateral arrangement (payable by both parties)	0.05 % of capacity matched

14.21 As has been mentioned in 4.11 “trading” in capacity is not permitted and this includes “trading” through bilateral arrangements.

14.22 Where one or more of the parties to the bilateral arrangement is resident outside the United Kingdom the parties should be aware of certain issues which may be relevant to them. Appendix 3 to the regulatory bulletin issued in May 1998 entitled “Review of Capital Rules – Bilateral Arrangements” contains a summary of certain of these – it is not intended to summarise comprehensively the position in the relevant jurisdiction or to constitute definitive legal advice as it is the primary responsibility of the bilateral parties and their advisers to ensure compliance with overseas securities laws and all other relevant legislation in the jurisdiction(s) concerned. Therefore, Lloyd’s accepts no responsibility or liability in this regard.

15. Fourth Auction

15.1 A limited auction for capacity released by the death of a member on or after 1 September 2004 will be held on 18 and 19 November 2004. This auction will also include:

- ◆ disposals of capacity in cases where the approved capacity of a syndicate for 2005 exceeds the amount indicated in the Syndicate’s Business Forecast (SBF) (such disposals being limited to a member’s share of the difference between the two amounts);
- ◆ transactions to which the Auction Official has given written consent in order to permit the correction of administrative errors in previous auctions;
- ◆ transactions in capacity on syndicates where the indicative RBC ratio for the

syndicate has increased by 10% or more between 22 September and 8 November 2004 or, in the event that a syndicate's RBC ratio is not recalculated on 22 September, between 20 August and 8 November 2004; and

- ◆ transactions in capacity on syndicates where after 24 September 2004 there has been a material change in the syndicate's 2005 business plan as defined in Auction Rule 4(4), that is:
 - a change in the active underwriter; or
 - the introduction of a new class of business; or
 - an increase in the ultimate loss ratio; or
 - a change in utilisation (where utilisation is the ratio of a syndicate's premium income to its capacity); or
 - an increase or decrease in business from any one source; or
 - in any other circumstance where the Auction Official confirms that in his view there has been a material change to a syndicate's business plan.

- 15.2 Persons may only subscribe for capacity in this auction if they have, or expect to have, sufficient surplus FAL (as at the coming-into-line date, 26 November 2004) to support any further capacity which they acquire. No additional funds can be supplied after the coming-into-line date.

16. Transfers of capacity after the Fourth Auction

- 16.1 In September 2000, Council approved certain arrangements for transferring capacity for value where the capacity had been released by the death of a member too late in the year for it to be tendered in any auction. Under these arrangements, if a member dies so late in the year that it is impracticable for his agent to tender the capacity in an auction, the capacity can be transferred on behalf of the estate to another member or members who have the necessary FAL in place, provided the transfers are notified to the Auction Office before the following 1 January.
- 16.2 Further details of these arrangements, together with details of the notification required when a transfer of capacity under them has been successfully effected, are set out in Regulatory Bulletin 070/2000, issued on 14 September 2000. Transfers made under these arrangements will not require the consent of the managing agents of the relevant syndicates.

LIMITATIONS TO THE AUCTION PROCESS

Lloyd's recognises that the auction process has been developed within a unique legal structure and therefore has certain limitations. Some of these are identified below:

- There is a limited season consisting of three auctions to be held in September and a limited fourth auction to be held in November.
- The value realised when surrendering capacity may not reflect the capacity's "true" value since the value realised depends on supply and demand in a particular auction. Values may therefore vary substantially between auctions.
- There are now a number of ways, in addition to the auctions, in which participants may be able to achieve value for their capacity, ie conversion schemes, capacity offers and bilateral arrangements. Each of these may result in a different value being attributed to the capacity.
- The value of the capacity might be higher, lower or non-existent next year.
- The benefit being acquired is the right to underwrite on a given syndicate for the 2005 year of account. Managing agents will have produced business forecasts before the start of the auctions but many changes could take place in the intervening months before the start of the following year of account. For example, the underwriter could become incapacitated or leave, the syndicate might have to cease underwriting or a merger might become essential, the control of the managing agency could change or the underwriter might decide on a radical change of approach. In practice, all these events would probably result in the managing agent offering to release a member from his obligation to underwrite on the syndicate for the following year but the member would not be able to recover any subscription premium he has paid or agreed to pay.
- "Trading" in capacity is not generally allowed, so the auction differs from other markets.
- Capacity transactions once effected cannot be reversed.
- The information provided is not sufficient to make the auction completely transparent. On Day Two of the auction all orders are entered on the basis of the same information about Day One but the activity on Day Two is not published until after the end of the auction.
- Orders that are not satisfied in an auction may be satisfied by interaction with a proposed bilateral arrangement. Where there is interaction, the result for a subscriber will be as if the order had been successful in the auction. Tenderers however will receive an average of the bilateral prices on the syndicate. This will be at, or above, the floor price stipulated in their order but could be below the average tender price achieved in the auction.

AUCTION RULES 2004

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AUCTION RULES

These Rules are made by the Council pursuant to paragraph 2(5) of the Auction Byelaw (No. 14 of 1997) and may be cited as the Auction Rules 2004.

1 Application

These Rules shall govern the conduct of all Auctions taking place in 2004.

2 Interpretation

The Schedule to these Rules (interpretation) shall have effect.

3 The Auction Official

3(1) The Auction Official shall be responsible for the conduct of all Auctions and the interpretation of these Rules.

3(2) The decision of the Auction Official in respect of any matters arising out of the interpretation or application of these Rules, including as to whether any of the conditions or requirements imposed under these Rules has been complied with, shall be final. In particular, but without limitation, his decision shall be final as to:

- a) whether any Form has been duly completed and whether any electronic submission made pursuant to these Rules contains all necessary information and has been duly made;
- b) the Relevant Time to be attributed to an Order;
- c) the validity and/or acceptability of any Order submitted by any person; and
- d) the eligibility of any person to participate in an Auction.

3(3) a) The Auction Official may in his absolute discretion:

- (i) cancel or re-run any Auction which has been held; and
- (ii) alter or adapt the procedure for the submission of Orders including, but without limitation, the hours during which an Auction Control Sheet may be submitted to the Auction Office and Orders may be submitted by an Issuer.

b) Where the Auction Official, in exercise of his discretion under this Rule 3(3), cancels or re-runs an Auction, he may in his absolute discretion alter or adapt the procedures set out in these Rules in their application to any person.

3(4) The Auction Official shall be entitled to dispense with, in whole or in part, or modify the application of these Rules (either unconditionally or subject to conditions) in such cases and by reference to such circumstances as he considers

appropriate.

4 **Holding of Auctions**

- 4(1) A series of Auctions in respect of each syndicate shall be held on the dates referred to in the first column of Appendix 1 and, in the case of any particular syndicate, on such further date or dates as the Auction Official may in his discretion authorise, where the Relevant Agent shall have given its consent in writing.
- 4(2) An additional Auction in respect of the prospective participations of Qualifying Members who die on or after 1 September 2004, together with any other prospective participation in respect of any syndicate which the Auction Official may in his discretion authorise pursuant to Rule 4(1) and to which, where appropriate, the Relevant Agent has given its written consent, shall be held on 18 November and 19 November 2004. The Auction Official may at his discretion modify these Rules in respect of that additional Auction, in which case he shall publish no later than 31 October 2004 to all Issuers a statement as to the extent to which these Rules are so modified.
- 4(3) The additional Auction held under Rule 4(2) shall also include:
- a) disposals of prospective participations in cases where the capacity of a syndicate for the 2005 year of account, as shown in the syndicate's Approved Business Plan, exceeds the amount indicated in the Syndicate's Business Forecast (such disposals being limited to a member's share of the difference between the two amounts);
 - b) transactions in prospective participations on syndicates undertaken, with the written consent of the Auction Official, in order to rectify administrative errors which have arisen from previous auctions; and
 - c) transactions in prospective participations on syndicates where:
 - (i) the indicative risk based capital (RBC) ratio for the syndicate has increased by 10% or more between 22 September and 8 November 2004 or, in the event that a syndicate's RBC ratio is not recalculated on 22 September, between 20 August and 8 November 2004; or
 - (ii) after 24 September 2004 there has been a material change in the syndicate's business plan for 2005.

Transactions in prospective participations on syndicates undertaken in the additional Auction by virtue of 4(3) a), b) and c) above will not require the prior approval of the Relevant Agent.

- 4(4) For the purpose of Rules 4(3) a) and c)(ii):
- a) a change in a syndicate's business plan for 2005 shall be measured by comparing the information in the Approved Business Plan with the information in the Disseminated Syndicate Business Forecast;

- b) a material change in a syndicate's business plan for 2005 will have occurred where:
- (i) there has been a change in the active underwriter; or
 - (ii) the syndicate's Approved Business Plan includes a class of business that was not included in the Disseminated Syndicate Business Forecast and that class of business equates to 5% or more of the total forecast gross premium income in the Disseminated Syndicate Business Forecast; or
 - (iii) the Approved Business Plan's gross ultimate loss ratio is five or more percentage points greater than the Disseminated Syndicate Business Forecast's gross ultimate loss ratio; or
 - (iv) the utilisation of capacity in the Approved Business Plan is either greater by 10% or more or lower by 10% or more than the utilisation of capacity in the Disseminated Syndicate Business Forecast, where utilisation of capacity ("U") is in each case calculated as follows:

$$U = \frac{\text{gross premium income}}{\text{capacity}} \times 100\%; \text{ or}$$
 - (v) two conditions are met:
 first, the amount of gross premium income for a source of business in the Approved Business Plan is either greater by 10% or more or lower by 10% or more than the amount of gross premium income for the same source of business in the Disseminated Syndicate Business Forecast; and
 secondly, such increase or decrease in gross premium income in the source of business is 5% or more of the total gross premium income in the Disseminated Syndicate Business Forecast; or
 - (vi) in any other circumstance where the Auction Official confirms that, in his view, there has been a material change to a syndicate's business plan.
- c) "Approved Business Plan" means the business plan of a syndicate for the 2005 year of account that has received the approval of Lloyd's; and
- d) "Disseminated Syndicate Business Forecast" means the Syndicate Business Forecast information which Lloyd's passes to members' agents and direct corporate members or which is communicated to such members' agents and direct corporate members by other means on or before 24 September 2004.

Qualifying Orders

To qualify for inclusion in any Auction, an Order must:

- a) be submitted by a person who is permitted to do so under Rule 6(1);
- b) be submitted electronically in the form prescribed by the Auction Official (or by such other means or in such other form as the Auction Official may agree) and, in accordance with the provisions of Rule 8 and, where applicable, Rule 9; and
- c) relate exclusively to one person who is permitted to subscribe for or, as the case may be, tender prospective participations under Rule 7.

6 **Eligible Issuers**

6(1) A person may only submit an Order if:

- a) he has submitted to the Auction Official on or before 23 July 2004 a declaration on Form A, which has been duly completed and signed;
- b) he is a person to whom Rule 6(2) applies; and
- c) he has paid in full any amounts for which he is liable under Rule 18 in respect of any earlier Auction.

6(2) This Rule 6(2) applies to:

- a) (i) in the case of a Subscription Order, a members' agent provided that there is an agreement (other than an agreement under which notice of termination has been given by the Name (as defined in such agreement) or, subject to the following proviso to this clause, the members' agent) in the terms of the standard members' agent's agreement current between that members' agent and each of the persons on whose behalf a Subscription Order is submitted provided that, in circumstances where the members' agent has given notice to terminate such agreement, the Auction Official may, in his absolute discretion and on such terms and subject to such conditions as he may, in his absolute discretion, prescribe, permit the members' agent to submit a Subscription Order in any Auction where the Auction Official determines that notice to terminate has been given by the members' agent for legal, technical or procedural reasons and that it would be fair and reasonable to permit the members' agent to participate;
- (ii) in the case of a Tender Order, a members' agent provided that (other than in the case of a Tender Order submitted on behalf of the estate of a person referred to in paragraph 2(5) of the Second Nomination Byelaw or who until the time of his death was a member of the Relevant Syndicate for the 2004 year of account) there is (or is deemed to be) an agreement in the terms of the standard members' agent's agreement current between that members' agent (or a substitute agent appointed by the Council) and each of the persons on whose behalf a Tender Order is submitted;

- b) a members' agent in respect of an Order submitted on behalf of a corporate candidate by which it has been appointed;
- c) a corporate member or corporate candidate which, the Council shall pursuant to paragraph 13 of the Membership Byelaw have agreed, does not have to appoint a members' agent, provided that, in the case of a corporate candidate, it has submitted to the Auction Official prior to the submission of an Order those undertakings, deeds, agreements and other documentation and information relating to its application for membership of the Society and for permission to underwrite insurance business at Lloyd's which the Auction Official at his discretion may from time to time require and including the following documents:
 - (i) a duly completed undertaking by the corporate candidate in a form prescribed by the Auction Official; and
 - (ii) an application for membership of the Society and for permission to underwrite insurance business at Lloyd's, each duly completed in the form required by the Membership and Underwriting Requirements (Corporate Member);
- d) the Relevant Agent in relation to a syndicate in respect of which the Relevant Agent acts (or is to act) both as the managing agent and the members' agent of the person on whose behalf the Order is submitted.

7 **Eligible Participants**

7(1) A person may only subscribe for prospective participations in an Auction if he is:

- a) a member:
 - (i) who is in compliance with all applicable requirements of the Council relating to solvency and funds at Lloyd's;
 - (ii) who is not a person who has failed and continues to fail to comply with a request for funds made under clause 9.1 of an agreement in the terms of the standard members' agent's agreement or clause 7.1 of an agreement in the terms of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member) to which he is a party, or under any other provision to the like effect contained in any agreement with an underwriting agent to which he is a party;
 - (iii) who, if he is a member of the Relevant Syndicate for the 2004 year of account, is a Qualifying Member; and
 - (iv) who, if not himself the Issuer, has given instructions and authority in the terms set out in Form B to the Issuer.

- b) a corporate candidate provided that, unless the Relevant Agent has (by completing, signing and submitting to the Auction Official Part I of a Form C) agreed otherwise:
 - (i) the Issuer has given the confirmation at Part II of a Form C; and
 - (ii) in the case of a corporate candidate which does not have a members' agent, it has submitted to the Auction Official the undertakings, deeds, agreements, documentation and information required to be submitted under Rule 6(2)(d); or
- c) an Authorised MAPA Operator.

7(2) A person may only tender prospective participations in an Auction if he is:

- a) a Qualifying Member who, if not himself the Issuer, has given instructions and authority in the terms set out in Form B to the Issuer;
- b) a members' agent acting on behalf of the estate of a deceased member or on behalf of the estate of a person referred to in paragraph 2(5) of the Second Nomination Byelaw; or
- c) an Authorised MAPA Operator.

7(3) Subject to paragraphs 2(4) and (5) of the Second Nomination Byelaw and to Rule 7(4):

- a) a person falling within Rule 7(2)(a) may only tender prospective participations in an Auction of an amount equal to the whole or part of the prospective participations (other than any participation through a MAPA) of that person;
- b) a members' agent acting on behalf of the estate of a deceased member or on behalf of the estate of a person referred to in paragraph 2(5) of the Second Nomination Byelaw may only tender prospective participations in an Auction of an amount equal to the whole or part of the prospective participations (other than any participation through a MAPA) of that deceased member or person; and
- c) an Authorised MAPA Operator may only tender prospective participations in an Auction equal to the whole or part of the prospective participations through any MAPA operated by that MAPA Operator.

7(4) No Order may be submitted on behalf of:

- a) a Staff Member of the Relevant Agent if it is a Tender Order in respect of the Relevant Syndicate and that Staff Member is a person to whom there is to be allocated any part of any increase in the syndicate allocated capacity for the 2005 year of account of the Relevant Syndicate pursuant to paragraph 7(2) of the Pre-emption Byelaw; or

- b) a particular person in a particular Auction if it is a Tender Order, and (subject to Rules 7(5) and 7(6)):
 - (i) a Subscription Order in respect of the same syndicate is being or has been submitted on behalf of that person in that Auction;
 - (ii) a Subscription Order has previously been submitted on behalf of that person in any earlier Auction in 2004 and been satisfied (in whole or in part); or
 - (iii) a participation nomination or second nomination in respect of the same syndicate has previously been made in 2004 in favour of that person under a permitted bilateral arrangement; or
- c) a particular person in a particular Auction if it is a Subscription Order, and (subject to Rule 7(5)):
 - (i) a Tender Order in respect of the same syndicate is being or has been submitted on behalf of that person in that Auction;
 - (ii) a Tender Order has previously been submitted on behalf of that person in any earlier Auction in 2004 and been satisfied (in whole or in part); or
 - (iii) a participation nomination in respect of the same syndicate has previously been made in 2004 by that person under a permitted bilateral arrangement.

7(5) Where a person participates in a syndicate both through a MAPA and otherwise, Rules 7(4)(b) and (c) shall apply to that person only in respect of his participations otherwise than through the MAPA.

7(6) Rules 7(4)(b)(ii) and (iii) shall not apply in respect of a Tender Order which is submitted in response to an invitation made in accordance with Schedule 2 to the Mandatory Offer Byelaw or which is made by a members' agent acting on behalf of the estate of a deceased member or on behalf of the estate of a person referred to in paragraph 2(5) of the Second Nomination Byelaw.

7(7) Rules 7(4)(b) and 7(4)(c) shall also not apply to members' orders submitted by members who are otherwise eligible to participate in the additional Auction held under Rule 4(2).

8 **Procedure for submission of Orders**

8(1) Subscription Orders and Tender Orders shall be submitted to the Auction Office electronically, or in such other form or by such other means as the Auction Official may agree.

8(2) An Order shall relate to:

- a) a single syndicate; and
 - b) a single Subscriber or Tenderer, as the case may be.
- 8(3) A Tender Order shall specify the minimum premium (the "Floor Limit") which the Tenderer requires to receive in respect of each £1 of Tendered Capacity.
- 8(4) A Subscription Order shall specify the premium (the "Subscriber's Premium") which the Subscriber is willing to pay in respect of each £1 of Subscribed Capacity.
- 8(5) The amount of all Floor Limits and Subscribers' Premiums shall be equal to 0.1p or an integral multiple of 0.1p.
- 8(6) An Order shall specify an amount of Tendered Capacity or Subscribed Capacity equal to £1 or an integral multiple of £1.
- 8(7) The person submitting an Order shall sign and submit by fax (or by such other means as the Auction Official may agree) to the Auction Office, between 9.00am and 1.00pm on Day One of an Auction or between 10.00am and 2.00pm on Day Two of an Auction, an Auction Control Sheet in respect of the electronic file in which the Order is submitted and the Auction Official shall cause the time at which each Auction Control Sheet is received at the Auction Office to be recorded electronically.
- 8(8) The time at which the Auction Official shall treat an Order as having been received is the recorded time of receipt of the relevant Auction Control Sheet (the "Relevant Time").
- 8(9) The Auction Official shall cause there to be sent to the relevant Issuer an acknowledgement of receipt of an Auction Control Sheet, stating the Relevant Time.
- 8(10) An Issuer may only submit an Order between 9.00am and 2.00pm on the same Day One of an Auction or between 10.00am and 3.00pm on the same Day Two of an Auction as the relevant Auction Control Sheet was submitted to the Auction Office under Rule 8(7).

9 Significant Participations

- 9(1) In the circumstances specified in Rule 9(2), a Subscription Order may only be submitted if the Relevant Agent has given his consent by completing, signing and submitting to the Auction Official Part I of a Form C.
- 9(2) The circumstances referred to in Rule 9(1) are where the amount of the prospective participation specified by a corporate candidate in the Subscription Order, when taken together with each prospective participation allocated to the corporate candidate pursuant to all Subscription Orders previously submitted by or on behalf of that candidate in 2004, would account for more than 3% of the Relevant Capacity of the Relevant Syndicate.

10 **Publication of Orders**

The Auction Official shall cause there to be made available electronically, or by such other means as the Auction Official may agree, before 8.00am on each Day Two of an Auction and 9.00am on the working day after Day Two of each Auction, such details as the Auction Official may determine of the Orders submitted in respect of each syndicate.

11 **Revision of Orders**

The person submitting an Order may submit electronically in a form prescribed by the Auction Official, or by such other means or in such other form as the Auction Official may agree, a notice (a "Revision Notice") revising a Subscription Order or, as the case may be, a Tender Order by specifying a higher Subscriber's Premium or, as the case may be, a lower Floor Limit, but subject to Rule 12, may not cancel or otherwise alter an Order after it shall have been submitted. The Relevant Time attributable to a revised Order shall be the time at which any Revision Notice delivered in respect of that Order is marked as received by the Auction Official and not the Relevant Time originally attributed to the Order. A Revision Notice may be submitted on any Day One or Day Two of an Auction.

12 **Rollover of Orders**

12(1) The person submitting an Order may state or make a statement (a "Rollover Statement") in the place indicated for this purpose in the electronic file submitted to the Auction Office, or in such other manner as the Auction Official may agree, that it wishes any part of the Order which is not satisfied in the Auction in respect of which it is submitted to be rolled over into following Auctions in the manner specified in Rule 12(2).

12(2) Subject to Rule 12(3):

- a) where an Order submitted in either Auction 1 or 2 in respect of which an Issuer has made a Rollover Statement and has not subsequently given a Withdrawal Notice pursuant to Rule 12(3)(a), has not been satisfied or has been satisfied only in part the Order shall, to the extent that it has not been satisfied, be rolled over into the next following Auction, and if not satisfied in full in that Auction shall, to the extent not satisfied, be rolled over into the next following Auction and so on up to and including Auction 3;
- b) the person submitting an Order in respect of which a Rollover Statement has been made and no Withdrawal Notice has subsequently been given pursuant to Rule 12(3)(a) and which is still not satisfied in full after having been rolled over into Auction 3, shall be notified within 2 working days of the last day of Auction 3 of the extent to which the Order was not satisfied.

12(3) a) The person submitting an Order may by 2.00pm on Day One of the Auction into which the Order is to be rolled over (the "Following Auction"), submit electronically in a form prescribed by the Auction Official or by such other

means or in such other form as the Auction Official may agree a notice (a "Withdrawal Notice") dis-applying the rollover provisions in Rules 12(1) and (2) in respect of all (but not part only) of an Order, so that all of the Order is withdrawn from the following Auction and each subsequent Auction.

- b) An Order will not be rolled over pursuant to Rules 12(1) and (2) where the person submitting that Order has not paid in full any amounts for which he is liable under Rule 18 in respect of any earlier Auction.
- c) *This paragraph has been deleted.*

13 **Allocation of Capacity**

- 13(1) The Subscription Orders submitted in any Auction in respect of a particular syndicate shall be ranked in order of their respective Subscriber's Premiums with the Subscription Order specifying the highest Subscriber's Premium ranking first in order of priority.
- 13(2) Any Subscription Orders specifying the same Subscriber's Premium shall be ranked according to the Relevant Time attributable to those Orders with the Order attributed the earliest Relevant Time being accorded priority.
- 13(3) The Tender Orders submitted in any Auction in respect of a particular syndicate shall be ranked in order of their respective Floor Limits with the Tender Order specifying the lowest Floor Limit ranking first in order of priority.
- 13(4) Any Tender Orders specifying the same Floor Limit shall be ranked according to the Relevant Time attributable to those Orders with the Order attributed the earliest Relevant Time being accorded priority.
- 13(5) Each Order shall be satisfied up to the amount of the Available Capacity, if any. In these Rules, the term Available Capacity means:
 - a) in relation to a Subscription Order, the amount of Tendered Capacity tendered in the relevant Auction at a Floor Limit less than or equal to the Subscriber's Premium specified in the Subscription Order after each Subscription Order ranking higher in order of priority shall have been satisfied; and
 - b) in relation to a Tender Order, the amount of Subscribed Capacity subscribed in the relevant Auction at a Subscriber's Premium higher than or equal to the Floor Limit specified in the Tender Order after each Tender Order ranking higher in order of priority shall have been satisfied.
- 13(6) The premium payable by a Subscriber in respect of any Order satisfied pursuant to Rule 13(5) shall be the Subscriber's Premium specified in that Subscription Order.
- 13(7) The premium per £1 of capacity to be paid to a Tenderer in respect of any Order satisfied pursuant to Rule 13(5) shall be an amount equal to:

A

B

where:

A = the aggregate of the amounts payable by all Subscribers whose Subscription Orders for prospective participations in the Relevant Syndicate tendered in the relevant Auction have been satisfied.

B = the total amount of prospective participations in the Relevant Syndicate which has been successfully allocated in the relevant Auction.

14 **Publication of Results**

The Auction Official shall cause there to be made available electronically in a form prescribed by the Auction Official or by such other means or in such other form as the Auction Official may agree before 9.00am on the working day after Day Two of an Auction details of the allocation of prospective participations pursuant to the Auction which shall include those details specified in Appendix 2.

15 **Fees**

- 15(1) Subject to Rule 15(5), a fee of a fixed amount prescribed by the Auction Official (inclusive of VAT) shall be payable by an Issuer in respect of each Subscription Order submitted.
- 15(2) An additional fee shall be payable by an Issuer in respect of each Subscription Order submitted which is satisfied in whole or in part. The amount of the fee shall be equal to a percentage figure prescribed by the Auction Official multiplied by the total amount of prospective participations acquired on satisfaction in whole or in part of the relevant Subscription Order.
- 15(3) For each Revision Notice or Withdrawal Notice submitted in respect of a Subscription Order, the relevant Issuer shall pay a fee of a fixed amount (inclusive of VAT) prescribed by the Auction Official.
- 15(4) A fee shall be payable by an Issuer in respect of each Tender Order submitted which is satisfied in whole or in part. The amount of the fee shall be equal to a percentage figure prescribed by the Auction Official multiplied by the total amount of prospective participations surrendered on satisfaction in whole or in part of the relevant Tender Order.
- 15(5) Where an Issuer makes a Rollover Statement in respect of a Subscription Order, no fee shall be payable by that Issuer under Rule 15(1) in respect of that Subscription Order if, pursuant to Rule 12(3)(c), it is not rolled over.

16 **Relevant Arrangements**

The allocation of a person's prospective participation pursuant to the satisfaction in whole or part of any Tender Order shall take precedence over any agreement to surrender or otherwise dispose of such prospective participation made by that person under a Relevant Arrangement, regardless of the time at which such agreement is

made.

17 **Permitted Bilateral Arrangements**

Any Orders which are not satisfied in the Auction may be satisfied either in whole or in part by a party to a permitted bilateral arrangement in accordance with conditions and requirements made pursuant to the Bilateral Arrangements Byelaw (No. 4 of 1999).

18 **Settlement**

- 18(1) The Auction Official shall no later than the date specified in the second column of Appendix 1 (the "Statement Date") cause there to be issued to each Issuer a statement as to the net amount (the "Net Amount") payable or receivable by that Issuer in respect of the Orders submitted by it in the Auctions specified in the first column of Appendix 1 immediately adjacent to that date (the "Relevant Auctions"). The Net Amount ("NA") shall be calculated as follows:

$$NA = A - B - C - D - E - F$$

Where:

A = the aggregate amount of all premiums receivable pursuant to Tender Orders submitted by that Issuer in the Relevant Auctions.

B = the aggregate amount of all premiums payable pursuant to Subscription Orders submitted by that Issuer in the Relevant Auctions.

C = the fixed amount prescribed by the Auction Official pursuant to Rule 15(1) (but subject to Rule 15(5)) multiplied by the number of Subscription Orders submitted by that Issuer in the Relevant Auctions.

D = the fixed amount prescribed by the Auction Official pursuant to Rule 15(3) multiplied by the number of Revision Notices and/or Withdrawal Notices submitted by the Issuer in the Relevant Auctions.

E = an amount equal to the percentage figure prescribed by the Auction Official pursuant to Rule 15(2) multiplied by the total amount of prospective participations acquired on satisfaction in whole or in part of Subscription Orders submitted by that Issuer in the Relevant Auctions.

F = an amount equal to the percentage figure prescribed by the Auction Official pursuant to Rule 15(4) multiplied by the total amount of prospective participations surrendered on satisfaction in whole or in part of Tender Orders submitted by that Issuer in the Relevant Auctions.

- 18(2) Where the Net Amount is a negative amount, it is referred to below as a Debit Amount and the statement as a Debit Statement and, where it is a positive amount, it is referred to below as a Credit Amount and the statement as a Credit Statement.
- 18(3) Each Issuer in receipt of a Debit Statement shall cause the Debit Amount to be credited in cleared funds to the Lloyd's Auction Settlement Account no later than close of business on the relevant debit date specified in the third column of Appendix 1 (the "Relevant Debit Date").

18(4) Subject to Rules 18(5) and 18(6), the Auction Official shall cause the Credit Amount payable to each Issuer in receipt of a Credit Statement to be credited to the relevant account (the "Issuer's Account") specified in the Declaration in Form A submitted by that Issuer in cleared funds no later than close of business on the relevant credit date specified in the fourth column of Appendix 1 (the "Relevant Credit Date").

18(5) If any Debit Amount is not paid in full by the Relevant Debit Date, the Auction Official shall only be obliged to pay in respect of any Credit Statement an amount (the "Actual Credit Amount") equal to:

$$A \times \frac{(C - B)}{C}$$

Where :

A = the Credit Amount specified in the Credit Statement

B = the aggregate of any Debit Amounts which have not been credited to the Lloyd's Auction Settlement Account in cleared funds by the Relevant Debit Date

C = the aggregate of all Credit Amounts.

18(6) A Participant who is not himself an Issuer shall, subject to Rule 18(7), be entitled to receive from or, as the case may be, liable to pay to an Issuer an amount equal to:

$$T - S - F$$

Where:

T = the aggregate amount of all premiums receivable pursuant to Tender Orders submitted on behalf of that Participant by that Issuer in the Relevant Auctions

S = the aggregate amount of all premiums payable pursuant to Subscription Orders so submitted

F = the amount payable under terms agreed with the Issuer in respect of Auction Fees in respect of Orders so submitted.

18(7) Where the amount determined in accordance with Rule 18(6) is positive, it is referred to below as the Individual Credit Amount of the relevant Participant.

18(8) If any Debit Amount is not paid in full by the Relevant Debit Date, an Issuer in receipt of a Credit Statement shall only be obliged to pay to a Participant on whose behalf he has submitted a Tender Order a part of that Participant's Individual Credit Amount equal to:

$$I \times \frac{(A - S)}{A}$$

Where:

I = the Individual Credit Amount

A = the aggregate of all Individual Credit Amounts payable by that Issuer
S = the amount by which the Actual Credit Amount paid to that Issuer is less than the Credit Amount.

- 18(9) Subject to Rule 18(15), the Individual Credit Amount, or such part of the Individual Credit Amount as shall be payable in accordance with Rule 18(8), shall be the only amount to which any Participant shall be entitled.
- 18(10) Subject to Rule 18(11), Lloyd's shall hold the benefit of amounts standing to the credit of the Lloyd's Auction Settlement Account and amounts receivable in respect of Debit Statements on trust for the benefit of those Participants on whose behalf Tender Orders shall have been submitted which have been satisfied in whole or in part.
- 18(11) Lloyd's shall be entitled to deduct an amount equal to the aggregate of all Auction Fees from the amount standing to the credit of the Lloyd's Auction Settlement Account before distributing the balance in accordance with Rule 18(4).
- 18(12) Subject to Rule 18(15), neither Lloyd's, nor the Auction Official, shall have any liability to any Issuer in receipt of a Credit Statement or any Participant in respect of the difference between the amount specified in that Credit Statement and the amount payable in accordance with Rules 18(5), 18(8) and 18(16).
- 18(13) Interest at a rate equal to 3% above the base rate of National Westminster Bank Plc from time to time shall be payable on each Debit Amount from the Relevant Debit Date until the date on which payment is actually received in full.
- 18(14) The Auction Official shall cause there to be made available electronically or by some other means the name of any Issuer who fails to credit to the Lloyd's Auction Settlement Account the Debit Amount payable by that Issuer in cleared funds by the Relevant Debit Date.
- 18(15) If any Debit Amount is not paid in full by the Relevant Debit Date, the Auction Official shall cause there to be credited to each Issuer's Account by 31 March 2005 an amount equal to:

$$R \times \frac{A}{C}$$

Where A and C have the significance given in Rule 18(5) and R is the amount paid or recovered in respect of any Debit Statement after the Relevant Debit Date, together with such interest as shall have accrued thereon.

- 18(16) If before any credit date the Auction Official becomes aware that an Issuer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, the Auction Official shall not cause the Credit Amount to be credited to that person's Issuer's Account but shall instead cause that amount, or, as the case may be, Actual Credit Amount, to be paid, at its discretion, either to an account opened in the name of any Substitute Agent appointed pursuant to paragraph 1 of the Substitute Agents Byelaw (No. 20 of 1983) or to the relevant Participants directly.

- 18(17) An Issuer shall ensure that all amounts received from or payable to Participants under this Rule 18 are held in a bank account set up for the purpose which is designated a client account and the title of which contains words which clearly indicate that the account is for the purpose of holding the Auction monies of Participants.

19 **Nomination**

- 19(1) For the purposes of Clause 11A.3 of any agreement in terms of the standard managing agent's agreement (general) and the standard managing agent's agreement (corporate member), the Auction Official shall be and is hereby nominated by the Council as a person in favour of whom authority may be given to sign nominations on behalf of any member under Clause 11A.
- 19(2) For the purposes of paragraph 2(2) of the Second Nomination Byelaw, the Auction Official shall be and is hereby nominated by the Council as a person in favour of whom authority may be given to sign second nominations (within the meaning of that byelaw) on behalf of any person entitled to make such a nomination under that byelaw.
- 19(3) The submission of a Subscription Order on behalf of a Subscriber shall constitute an offer on the part of the Subscriber made to the Auction Official to pay an amount equal to the Subscriber's Premium to the Auction Official, in its capacity as trustee for all Tenderers whose Orders shall be satisfied in whole or in part, in consideration of acquiring an entitlement to participate in the Relevant Syndicate with a member's syndicate premium limit equal to, or increased by, the amount of Subscribed Capacity.
- 19(4) The submission of a Tender Order on behalf of a Tenderer shall constitute an offer on the part of the Tenderer made to the Auction Official to reduce the member's syndicate premium limit with which he would otherwise be entitled to participate in the Relevant Syndicate by the amount specified in the Tender Order in consideration of receipt of a payment of an amount of not less than the Floor Limit, in respect of each £1 of Tendered Capacity.
- 19(5) The Relevant Agent shall do all such acts and things and execute all such documents as shall be necessary or expedient on its part to give effect to any Order which is satisfied in whole or in part, and in particular but without limitation:
- a) to enable any Subscriber, to whom any Relevant Capacity has been allocated to underwrite as a member of the Relevant Syndicate for the 2005 year of account with a member's syndicate premium limit equal to, or if he is otherwise entitled to participate in that syndicate, with a member's syndicate premium limit increased by, the amount of Relevant Capacity allocated to him;
 - b) the Relevant Agent shall enter into an agreement in the terms of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member) with any Subscriber to whom any Relevant Capacity is allocated if there is no such agreement current between the

Relevant Agent and that Subscriber;

- c) the Relevant Agent, unless the Council agrees otherwise, shall enter into an agreement in the terms of the standard agents' agreement with the members' agent of any Subscriber to whom any Relevant Capacity is allocated if there is no such agreement current between the Relevant Agent and that members' agent; and
- d) where the amount of the Relevant Capacity surrendered by a Tenderer is less than the amount of the prospective participation of the Tenderer, to enable that Tenderer to underwrite as a member of the Relevant Syndicate for the 2005 year of account with a member's syndicate premium limit equal to the difference between those amounts.

20 **Disclosure and Market Conduct**

- 20(1) No person shall subscribe for or tender any prospective participation or submit an Order if he is in possession of Relevant Information which has not been made publicly available.
- 20(2) Each Issuer shall prepare and deliver to the Auction Official on or before 6 August 2004 a Form D giving details of all persons, on whose behalf it may submit Orders, who are connected with any underwriting agent. Each Issuer shall prepare and deliver to the Auction Official a further Form D in respect of each such person who becomes connected with any underwriting agent after 6 August 2004 and such Form D shall be delivered to the Auction Official within 5 days of that person becoming so connected.
- 20(3) Each managing agent shall ensure that it has procedures in place such that no Order shall be submitted on behalf of any person connected with that managing agent unless clearance from the Compliance Officer of that managing agent has been obtained. The Compliance Officer shall not give clearance where he has reason to believe that the managing agent or that person may have, in its or his possession, Relevant Information which has not been made publicly available. The Compliance Officer shall keep a record of all applications for clearance submitted to him and his decision in respect of each application. The Compliance Officer shall comply within 2 working days with any request for copies of such record made by the Auction Official.
- 20(4) Without limiting the provision made in paragraph (i) of Clause 4.2 of any agreement in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member), each Relevant Agent shall ensure that any Relevant Information which comes into its possession shall be disclosed promptly to the members of the Relevant Syndicate and shall promptly provide to the Auction Official at the same time particulars of any such disclosure in the form required by the Auction Official from time to time. The Auction Official shall prepare a register in which he shall include the particulars provided to him for each syndicate. That register shall be open for public inspection during Business Hours in each week in which an Auction is held. The Auction Official shall also cause to be published in such form and in such manner as he may from

time to time determine the particulars provided to him for each syndicate.

20(5) No Issuer or Participant shall (and each Issuer and Participant shall use its reasonable endeavours to ensure that no person connected with it shall):

- a) make any statement, promise or forecast which it knows to be misleading, false or deceptive or dishonestly conceal any material facts; or
- b) do any act or engage in any course of conduct which creates a false or misleading impression as to the market in or value of Relevant Capacity

with a view to any other person issuing an Order or subscribing for or tendering any prospective participation in any Auction or refraining from doing so.

20(6) Each managing agent shall ensure that no person connected with it shall submit an Order unless the managing agent has submitted a Syndicate Business Forecast in respect of the Relevant Syndicate prior to the commencement of the Auction in which the Order is to be submitted.

20(7) A managing agent shall not publish a Syndicate Business Forecast in respect of any of its syndicates on the working day before Day One of an Auction, Day One of an Auction and Day Two of an Auction.

20(8) In this Rule 20:-

"Relevant Information" means, in relation to a syndicate, information which could reasonably be expected to influence the decision of any person whether to become or remain a member of that syndicate, or to increase or reduce his participation in that syndicate and shall include any information relating to:

- a) any change of active underwriter or the deputy of the active underwriter or other personnel responsible for key roles in the business of the syndicate, including but not limited to the purchase and vetting of reinsurance and cash and investment management; or
- b) any sale of the goodwill of the business of acting as managing agent of that syndicate, any sale of the benefit or burden of the contracts relating to the management of that syndicate, any cessation of acceptance of new or renewal business on behalf of that syndicate by the managing agent of that syndicate or any syndicate merger (within the meaning of paragraph 1(2) of the Major Syndicate Transactions Byelaw (No. 18 of 1997)) in which the syndicate is either a ceasing syndicate (within the meaning of that paragraph) or the successor syndicate (within the meaning of that paragraph); or
- c) any proposal to effect a transaction, arrangement or matter described in b) above, where a firm intention to effect such transaction, arrangement or matter has been formed; or
- d) any material change in the nature or scope of the underwriting or reinsurance accepted or effected on behalf of the syndicate; or

- e) any material change in the geographical split of syndicate business being written; or
- f) the identity of any person which the Relevant Agent is aware is proposing to acquire control of the Relevant Agent; or
- g) any material change in the risk-based capital ratio applicable to the syndicate; or
- h) any material change in the participation in the syndicate of the active underwriter or in any shareholding or interest the active underwriter may have in any corporate member which is a member of the syndicate; or
- i) any material change in a syndicate's business plan for 2005 as set out in Rule 4(3) c)(ii) and 4(4) above.

20(9) For the purposes of Rule 20, Appendix 2 and Form D, a person is "connected" with an underwriting agent if he is:

- a) a director or manager of that underwriting agent;
- b) a spouse of a director or manager of that underwriting agent;
- c) any other Staff Member of that underwriting agent;
- d) a corporate member or corporate candidate which participates or is to participate exclusively or predominantly in one or more of the syndicates managed by that underwriting agent;
- e) a body corporate which controls or is controlled by or is under common control with that underwriting agent; or
- f) a corporate member or corporate candidate in respect of which any person referred to in a), b) or c) above, either alone or with that person's spouse and/or children (including step-children and adopted children) under the age of 18 years, is a 30 per cent controller.

20(10) For the purposes of Rule 20 and Appendix 2, a person ("the former") is "connected" with a person who is not an underwriting agent ("the latter") if the latter is an associate (within the meaning of the Major Syndicate Transactions Byelaw (No. 18 of 1997) of the former.

21 **Commencement**

These conditions and requirements shall come into force on 30 June 2004.

SCHEDULE INTERPRETATION

In these Rules unless the context otherwise requires:-

"active underwriter"	has the meaning given to it in the Definitions Byelaw (No. 3 of 2004);
"Agency Agreements Byelaw"	means the Agency Agreements Byelaw (No. 8 of 1988);
"agents' syndicate list"	has the meaning given to it in the Agency Agreements Byelaw;
"Auction"	in relation to a syndicate, means an auction within the meaning of paragraph 2(1) of the Auction Byelaw conducted in accordance with these Rules;
"Auction Byelaw"	means the Auction Byelaw (No. 14 of 1997);
"Auction Control Sheet"	means a summary of Orders contained in an electronic file or a summary in such other format as may be agreed by the Auction Official;
"Auction Fee"	means a fee payable pursuant to Rule 15;
"Auction Office"	means such electronic site as the Auction Official may designate for the receipt of all notices, orders and other submissions to be given or made electronically, and, in relation to notices, forms and other submissions to be given or made to the Auction Official in physical form, means the designated officials in the, Membership Services Unit;
"Auction Official"	means the person appointed pursuant to paragraph 3(1) of the Auction Byelaw and shall include, in respect of and to the extent of the powers and duties so delegated, any person to whom the Auction Official shall have delegated any of his powers or duties for the time being pursuant to paragraph 3(3) of the Auction Byelaw;
"Authorised MAPA Operator"	<p>means a MAPA Operator who has obtained authority in the terms set out in Form E from each of the members of the MAPA as shall participate through the MAPA for the 2005 year of account or who submits Orders in respect of a MAPA operated by it on the basis that:-</p> <p>(i) the aggregate amount of all premiums payable by it pursuant to Subscription Orders submitted by it in 2004 in respect of that MAPA does not exceed the aggregate amount of premiums receivable by it pursuant to Tender</p>

Orders submitted by it in 2004 in respect of that MAPA;
and

- (ii) the aggregate of the member's syndicate premium limits of each member of that MAPA (disregarding any part of such limits allocated otherwise than through that MAPA) for all syndicates for the 2005 year of account will not, unless the member has agreed otherwise, be less than that member's aggregate for the 2004 year of account;

"Available Capacity"	has the meaning given in Rule 13(5);
"body corporate"	has the meaning given in the Companies Act 1985;
"Business Hours"	means the hours from 9.00am to 2.00pm on Day One of an Auction and 10.00am to 3.00pm on Day Two of an Auction;
"business plan"	has the meaning given in the Definitions Byelaw (No. 3 of 2004)
"control"	has the meaning given in the Definitions Byelaw (No. 3 of 2004) and "controlled" shall be construed accordingly;
"corporate candidate"	means a candidate, within the meaning of paragraph 3(2)(c) of the Membership Byelaw, which is a body corporate or a Scottish limited partnership;
"corporate member"	means a member of Lloyd's which is a body corporate or a Scottish limited partnership;
"Council"	means the Council of Lloyd's constituted by Section 3 of Lloyd's Act 1982 and includes its delegates and persons by whom it acts;
"Credit Amount"	shall be construed in accordance with Rule 18(2);
"Credit Statement"	shall be construed in accordance with Rule 18(2);
"Debit Amount"	shall be construed in accordance with Rule 18(2);
"Debit Statement"	shall be construed in accordance with Rule 18(2);
"deceased member"	means a person who has died during 2004 but who until the time of his death was a Qualifying Member;
"electronic file"	means an electronic file containing one or more Orders relating to one or more persons;
"Floor Limit"	has the meaning given in Rule 8(3);
"Form"	means a notice or other document, the form and contents of which is to be prescribed by the Auction Official pursuant to

	paragraph 3(3) of the Auction Byelaw for the purposes of a particular Rule;
"individual member"	means a member of Lloyd's who is an individual;
"Issuer"	means a person who is permitted pursuant to Rule 6 to submit an Order qualifying for inclusion in an Auction;
"Lloyd's Auction Settlement Account"	means the Corporation of Lloyd's Account entitled "Lloyd's Auction Settlement Account";
"Mandatory Offer Byelaw"	means the Mandatory Offer Byelaw (No. 5 of 1999);
"MAPA"	means a members' agents pooling arrangement within paragraph 10(2) of the Agency Agreements Byelaw;
"MAPA Operator"	in relation to a MAPA, means a members' agent which operates that MAPA within the meaning of paragraph 1(2) of the Agency Agreements Byelaw;
"member"	means as the context requires, an individual member or a corporate member;
"member's syndicate premium limit"	has the meaning given in the Definitions Byelaw (No. 3 of 2004);
"Membership Byelaw"	means the Membership Byelaw (No. 17 of 1993);
"Order"	means an offer submitted to the Auction Official in accordance with the requirements of these Rules;
"Participant"	means a Tenderer or Subscriber;
"participation nomination"	means a nomination such as is referred to in clause 11A.2 of an agreement in the terms of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member);
"permitted bilateral arrangement"	has the meaning given in the Bilateral Arrangements Byelaw (No. 4 of 1999);
"Pre-emption Byelaw"	means the Syndicate Pre-emption Byelaw (No. 19 of 1997);
"prospective participation"	means in relation to any syndicate, the amount of the member's syndicate premium limit with which a person will for the time being be entitled to participate as a member of that syndicate for the 2005 year of account;

"Qualifying Member"	means in relation to any syndicate, a person who is a qualifying member within the meaning of paragraph 2(2) of the Pre-emption Byelaw save that the reference to the date on which an offer is made in paragraph 2(2)(a) shall be construed instead as a reference to the date on which an Order is submitted on behalf of that person;
"Relevant Agent"	in relation to any syndicate, means the managing agent of that syndicate;
"Relevant Arrangement"	means a conversion arrangement, share swap arrangement or surrender arrangement each as defined in the Conversion and Related Arrangements Byelaw (No. 22 of 1996);
"Relevant Capacity"	in relation to any syndicate, means the aggregate of the prospective participations of the persons entitled to participate in the syndicate for the next following year of account;
"Relevant Debit Date"	has the meaning given in Rule 18(3);
"Relevant Syndicate"	means in relation to any managing agent, any Order and any person, a syndicate which that managing agent manages, to which that Order relates or of which that person is a member;
"Relevant Time"	the time of receipt of an Order as determined by the Auction Official pursuant to Rules 8(8) and 11;
"requirements of the Council"	means any requirement imposed by any byelaw or regulation made under Lloyd's Acts 1871 to 1982, or under any authority given by any premiums trust deed, any code of practice, underwriting guidance, condition or requirement made or imposed or direction given under any such byelaw, regulation or authority or, any direction given under Section 6 of Lloyd's Act 1982, any requirement imposed by or under any agreement, deed or other instrument between Lloyd's or the Council and any member, underwriting agent or any trustee of any premiums trust deed, or by any undertaking in favour of Lloyd's or the Council given by a member, an underwriting agent or any trustee or any premiums trust deed and any other requirement imposed or direction given by the Council under Lloyd's Acts 1871 to 1982; and the phrase "required by the Council" and similar phrases shall be construed accordingly;
"Revision Notice"	has the meaning given in Rule 11;
"Rollover Statement"	has the meaning given in Rule 12(1);
"Scottish limited partnership"	means a limited partnership constituted in Scotland under the Limited Partnerships Act 1907;

"second nomination"	has the meaning given in the Second Nomination Byelaw;
"Second Nomination Byelaw"	means the Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000);
"Staff Member"	in relation to any members' agent or managing agent, means any partner in or director, employee or officer of that members' agent or managing agent and any person engaged on a full-time basis under a contract for services by that members' agent or managing agent;
"standard members' agent's agreement", "standard agent's agreement", "standard managing agent's agreement (general)" and "standard managing agent's agreement (corporate member)"	have the meanings respectively given in the Agency Agreements Byelaw;
"Statement Date"	has the meaning given in Rule 18(1);
"Subscribed Capacity"	means the amount of the prospective participation specified in a Subscription Order;
"Subscriber"	means a person on whose behalf a Subscription Order is submitted;
"Subscriber's Premium"	has the meaning given in Rule 8(4);
"Subscription Order"	means an order qualifying for inclusion in an Auction pursuant to Rule 5 subscribing for prospective participations;
"syndicate allocated capacity "	means, in relation to a syndicate, the aggregate of the member's syndicate premium limits of all the members for the time being of the syndicate together with the member's syndicate premium limit of any person who was a member of the syndicate on 1 January 2004 but who has subsequently died;
"Syndicate Business Forecast"	means a business forecast prepared by the managing agent of a syndicate in respect of the following year of account for circulation to members of the syndicate and supporting members' agents;
"syndicate list"	has the meaning given in the Agency Agreements Byelaw;
"Tender Order"	means an order qualifying for inclusion in an Auction pursuant to Rule 5 tendering prospective participations;

"Tendered Capacity"	means the amount of the prospective participation specified in a Tender Order;
"Tenderer"	means a person on whose behalf a Tender Order is submitted;
"30 per cent controller"	means a controller (within the meaning given in paragraph 2 of the Schedule to the Membership Byelaw) in whose case the percentage referred to in paragraphs 2(d) and 2(da) of that Schedule is 30 or more;
"Withdrawal Notice"	has the meaning given in Rule 12(3)(a); and
"working day"	means any day other than a Saturday, a Sunday or bank or public holiday in England.

In these Rules, any reference to:

- (a) a person subscribing for prospective participations shall be construed as a reference to that person making an offer falling within Rule 19(3);
- (b) a person tendering prospective participations shall be construed as a reference to that person making an offer falling within Rule 19(4);
- (c) a person being allocated prospective participations shall be construed as a reference to a Subscription Order submitted on behalf of that person being satisfied in whole or in part pursuant to Rule 13(5); and
- (d) a person surrendering prospective participations shall be construed as a reference to a Tender Order submitted on behalf of that person being satisfied in whole or in part pursuant to Rule 13(5).

Any reference in these Rules to a byelaw is a reference to it as already amended and in force from time to time and to any byelaw that re-makes or consolidates, with or without amendment, any such byelaw.

In these Rules, use of any gender includes the other genders.

The expressions "Issuer", "Lloyd's Auction Settlement Account" and "Participant" are used in the Lloyd's Premiums Trust Deeds (PTD G 99 (MEM556) and PTD L 99 (MEM 557))

Relevant Dates 2004**APPENDIX 1**

Auction		Statement Date	Debit Date	Credit Date
Auction 1: Day One Tuesday 7 September Day Two Wednesday 8 September				
Auction 2: Day One Wednesday 15 September Day Two Thursday 16 September		Auctions 1, 2 and 3 8 October	Auctions 1, 2 and 3 26 October	Auctions 1, 2 and 3 29 October]
Auction 3: Day One Tuesday 28 September Day Two Wednesday 29 September				
Fourth Auction: Day One Thursday 18 November Day Two Friday 19 November		30 November	13 December	16 December

PUBLICATION OF RESULTS

The information to be published by the Auction Official on the allocation of prospective participations in any Auction shall include the following details:

- Auction number
- Syndicate number
- Total amount of prospective participations surrendered or allocated
- The identity of successful Tenderers and Subscribers where:
 - the amount of prospective participations surrendered or allocated exceeds £100,000;
 - the successful Tenderer or Subscriber is "connected" with an underwriting agent for the purposes of Rule 20
- The identity of each Subscriber who, on satisfaction in whole or in part of a Subscription Order, holds 25% or more of the syndicate allocated capacity of the syndicate (when taken with any other prospective participation held by each person connected with it) ("25% Subscriber")
- The identity of each 25% Subscriber who, on satisfaction in whole or in part of a Subscription Order (and when taken with any other prospective participation held by each person connected with it) increases its percentage holding in respect of that syndicate through a whole percentage point (e.g. 26%, 27% etc)

FORM A**DECLARATION BY ISSUER****Part I : Details of Issuer**

Name of Issuer	Agent Code
Address	
Telephone	
Fax	
Market Mail or E-Mail Address	

Part II : Issuer's Auction Funding Account Details

(account where net proceeds are to be credited)

Account Number
Title *
Bank
Branch
Sort Code

[* Account should be a designated client account and its title should indicate that the account holds Lloyd's Auction monies.]

Please indicate below which versions of the individual issuer results reports you wish to receive and your preferences for which medium you access general information and newsletters:

Issuer Results Files
(please tick preference)

CSV layout

XLS layout

WK1 layout

Auction Newsletter
(please tick preference)

Send via
E-mail

Don't send via E-mail
Will access direct on Internet

**Additional reports
(please tick preference)

Send via
E-mail

Don't send via E-mail
Will access direct on Internet

** (Connected persons, Stakebuilder's Report, Bids in excess of £100,000)

Part III : Representations and Undertakings

- 1 The following representations and undertakings ("the undertakings") shall, subject to paragraph 2 below, apply in respect of each Order which we submit and (other than undertaking A which is given in favour of all Tenderers) are given in favour of the Relevant Agent of each syndicate to which an Order submitted by us relates:
 - A We undertake to pay the amount specified in any Debit Statement issued to us in cleared funds by the Relevant Debit Date.
 - B We confirm that we have taken proper account of the information contained in the Syndicate Business Forecast of each Relevant Syndicate.
 - C The person named in a Subscription Order will be a person who is permitted to subscribe for prospective participations under Rule 7(1) and the person named in a Tender Order will be a person who is permitted to tender prospective participations under Rule 7(2).
 - D We irrevocably undertake that we will when called upon to do so execute, in respect of a syndicate to which any Order submitted by us relates, an agents' syndicate list in a form complying with the requirements of the Council and including, in respect of the Relevant Participant on whose behalf we submit an Order, a member's syndicate premium limit equal to the prospective participation of that Relevant Participant (a Relevant Participant being for this purpose a Participant (other than a Participant who terminates the appointment of the Relevant Agent pursuant to clause 11.5 of an agreement in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member))).
 - E We shall enter into an agreement with the Relevant Agent in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member) (as the case may be) on behalf of any Subscriber to whom any Relevant Capacity is allocated if there is no such agreement current between the Relevant Agent and the Subscriber.
 - F We agree that, save for any Subscriber which is a corporate candidate, each Subscriber to whom any Relevant Capacity is allocated shall be a Provisional Insurer within the meaning of clause 8.2 of an agreement in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member) if the conditions set out in that clause are satisfied in respect of that Subscriber and that the amount of each Relevant Participant's overall premium limit to be allocated to the Provisional Syndicate (within the meaning of clause 2.3 of the standard agent's agreement) shall be an amount equal to the prospective participation of the Relevant Participant.
 - G We will, when called upon to do so, execute an agents' syndicate list in a form complying with the requirements of the Council and including prospective participations by the members of the MAPA for the 2005 year of account such that their member's syndicate premium limits (disregarding any part of such limits allocated otherwise than through the MAPA) amount in aggregate to not less than the prospective MAPA participation (but excluding the prospective participations of those members of the MAPA who are members of the syndicate in that capacity for the 2004 but not the

2005 year of account) and agree that, if the managing agent so requires, the managing agent will be entitled to an annual fee for the 2005 year of account on the basis of those member's syndicate premium limits.

- 2 The undertakings lettered A and C above shall apply to all Orders submitted by us. The undertaking lettered B above shall apply to all Orders submitted by us except for any Order relating to the syndicate of a Relevant Agent which, at the time the Order is issued by us, has not yet issued its Syndicate Business Forecast. The undertakings lettered D, E and F above shall apply to all Orders submitted by a members' agent acting on behalf of Participants in respect of prospective participations otherwise than through a MAPA. The undertaking lettered G above shall apply to all Orders submitted by a member's agent in its capacity as an Authorised MAPA Operator.
- 3 The terms used in this form shall have the meanings given to them in the Auction Rules 2004.

Part IV : Authorised Persons

The persons identified below have been duly authorised to submit Orders on behalf of the Issuer :

	Name	Title	Signature
A*			
B*			

* "A" should be the main contact for the purposes of the auction.

We hereby confirm that all the statements made in this Declaration are true and accurate.

.....

Partner/Director

.....

Partner/Director/Secretary

FORM B

INSTRUCTIONS AND AUTHORITY TO TENDER/SUBSCRIBE

Name

Membership Number

[for subscriptions, insert syndicate number(s), amount of capacity and subscriber's premium]

[for tenders, insert syndicate number(s), amount of capacity and floor limit]

Authority

You are authorised to act on my/our¹ behalf in the auctions to be held in respect of the syndicates listed above (or as otherwise advised by me/us¹ to you in writing (whether by letter, fax or otherwise) or over the telephone) to, as the case may be, subscribe for prospective participations at a premium equal to the Subscriber's Premium specified above or tender prospective participations at a premium equal to the Floor Limit specified above (or, in either case, as otherwise advised by me/us¹ to you in writing (whether by letter, fax or otherwise) or over the telephone) and to agree, if the managing agent of the relevant syndicate so requires, that that managing agent will be entitled to an annual fee for the 2005 and subsequent years of account on the basis of my/our¹ member's syndicate premium limit.

Undertaking

I/We¹ hereby irrevocably undertake to execute, in respect of each syndicate to which any Subscription Order or Tender Order submitted on my/our¹ behalf relates, a syndicate list, complying with the requirements of the Council and including a member's syndicate premium limit equal to my/our¹ prospective participation (see note below).

Provisional Syndicate

You are hereby authorised to enter into an agreement on my/our¹ behalf in the terms of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member) with the relevant agent of any syndicate in respect of which I/we¹ subscribe for prospective participations if there is no such agreement current between that managing agent and myself/us¹.

You are hereby authorised to agree that the amount of my/our¹ overall premium limit to be

¹The use of "our", "we" and "us" only applies where these instructions are being given by a corporate member or a corporate candidate (which in each case includes a Scottish limited partnership).

allocated to any Provisional Syndicate (within the meaning of clause 2.3 of the standard agent's agreement) shall be an amount equal to my/our¹ prospective participation.

Acknowledgement

I/We¹ acknowledge that I/we¹ have read the Appendix to the Explanatory Guide (Limitations to the auction process) and understand the limitations of the auction process.

Signed² Date

Signed by³ Date
for and on behalf of []

Note: prospective participation refers to the amount of the member's syndicate premium income limit with which you will be entitled to participate on a particular syndicate for the next following year of account.

Note

In the interest of administrative efficiency, it was agreed that, from 1 January 2003, any instruction or authority given by a member in the form of Form B above would be “evergreen”, that is it would remain in force until revoked, modified or subsequently withdrawn by the relevant member. Any member therefore who wished his or her instruction or authority to be valid only for the 2004 auctions should have indicated that fact clearly on the Form B submitted to their members’ agent. For the avoidance of doubt, members and their advisers should note that any Form B which contains specific instructions (as to syndicates, amounts of capacity and/or prices) with regard to subscriptions or tenders of capacity will be deemed to be valid only for the year in which it is completed (determined, where necessary, by reference to the date on which it was signed by the relevant member or his/her representative).

²For use by individuals.

³For use by corporate members or corporate candidates - insert name.

FORM C

Part I : Consent of Relevant Agent

Issuer Name/Code:

Membership Number:

Syndicate Number:

We hereby give our consent for the purpose of Rule 7(1)(b) (candidates for membership) or 9 (significant participations) or Rule 3(2)(e) of the Bilateral Arrangements (2004) Rules.*

Managing Agency	Name	Title	Signature	Telephone No

*Delete as appropriate

Part II : Additional Confirmation

Issuer Name/Code:

Membership Number:

Syndicate Number:

We hereby confirm that the candidate for membership has available sufficient funds to be able to provide funds at Lloyd's in the amount required for the candidate to be permitted under requirements of the Council to participate in the Relevant Syndicate for the 2005 year of account with a member's syndicate premium limit equal to the amount of Subscribed Capacity taking into account any other Subscription Orders which have been submitted on his behalf in respect of that or any other syndicate.

	Name	Title	Signature
Authorised Person			

TO BE COMPLETED BY AUCTION OFFICE

Task:					
Initials:					

Date:

Bid No:

FORM D**LIST OF CONNECTED PERSONS**

Issuer Name/Code	Member Agent/Managing Agent/Corporate Member/Adviser
------------------	---

Connected Person ¹	Membership No. ²	Category ³

Notes for completion

NB Disclosure is not required in respect of MAPA participations.

1. Provide details for connected persons by 6 August 2004 to the Auction Office.
2. Complete where applicable.
3. Complete as appropriate:
D/M = director or manager falling within Rule 20(9)(a)
S = spouse of director or manager falling within Rule 20(9)(b)
SM = Staff Member falling within Rule 20(9)(c)
CM/CC = a corporate member or corporate candidate falling within Rule 20(9)(d)
C = controller which is a body corporate falling within Rule 20(9)(e)
CBC = controlled body corporate falling within Rule 20(9)(e)
CC = body corporate under common control falling within Rule 20(9)(e)
30%= a corporate member or corporate candidate falling within Rule 20(9)(f)

Confirmation

We hereby confirm that each of the statements made in the Declaration is true and accurate in respect of this Notice.

	Name	Title	Signature
Authorised Person			

FORM E

AUTHORITY OF A MAPA OPERATOR

MAPA operators may wish to develop their own detailed agreements in connection with the Auctions. Depending on the circumstances, such agreements are likely to include the following:

- 1 Authority to tender prospective participations and to authorise the Auction Official to make any nomination pursuant to Clause 11A.2 of each agreement in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member) to which that member is party.
- 2 Authority to subscribe for prospective participations.
- 3 Authority to incur expenditure of up to a specified amount.

BILATERAL ARRANGEMENTS (2004) RULES

Contents

Rule

- 1 Citation
- 2 Interpretation
- 3 Validation
- 4 Fees
- 5 Unsatisfied auction orders
- 6 Withdrawal and revision of notices
- 7 Settlement of auction orders
- 8 Nomination
- 9 Overseas jurisdictions
- 10 Restrictions on advertisements
- 11 Commencement

Prescribed Forms

Form BN: Bilateral Notice (including Form BN/BTG -/- and Form BN/BSG -/-)

Form BW: Bilateral Withdrawal Notice

Form BR: Bilateral Revision Notice

BILATERAL ARRANGEMENTS (2004) RULES

The Council of Lloyd's in exercise of its powers under section 6(1) of Lloyd's Act 1982, paragraph 2(5) of the Auction Byelaw (No. 14 of 1997) and paragraphs 5 and 8 of the Bilateral Arrangements Byelaw (No. 4 of 1999) hereby prescribes the following conditions and requirements.

1. Citation

These conditions and requirements may be cited as the Bilateral Arrangements (2004) Rules.

2. Interpretation

2(1) Subject to Rule 2(2), except where the context otherwise requires, words and phrases defined in the Bilateral Arrangements Byelaw (No. 4 of 1999) and the Auction Rules 2004 have the same meanings where used in these Rules.

2(2) In these Rules:

- (a) “connected company” means, in relation to a body corporate, any other body corporate which controls or is controlled by or is under common control with that body corporate;
- (b) any reference to a byelaw is a reference to it as already amended and in force from time to time and to any byelaw that re-makes or consolidates, with or without amendment, any such byelaw;
- (c) use of any gender includes the other genders.

3. Validation

3(1) A permitted bilateral arrangement may be validated only on Day Two or the working day after Day Two of an auction and shall not be validated later than 1.00pm on the working day after Day Two of an Auction unless the Auction Official otherwise agrees.

3(2) A permitted bilateral arrangement shall not be validated unless -

- (a) the prospective participation to which the arrangement relates is not less than £250,000;

(b) by 2.00pm (or such later time as the Auction Official may permit) on Day Two of an auction there has been submitted to the Auction Office notice of the proposed arrangement in Form BN (a "bilateral notice") containing a statement signed by or on behalf of each of the parties to the arrangement and giving particulars of -

- (i) the parties to the arrangement, stating which of them is making a participation nomination and/or a second nomination;
- (ii) the syndicate concerned;
- (iii) the amount of prospective participation on the syndicate in respect of which a participation nomination and/or a second nomination is to be made;
- (iv) the price to be paid in respect of each £1 of the prospective participation which is the subject of the arrangement (the "bilateral price");
- (v) such other particulars as the Auction Official may require, whether generally or in relation to the particular arrangement;

and certifying

- (vi) that the only consideration for any participation nomination and any second nomination is cash;
- (vii) that in respect of the syndicate concerned -
 - (aa) no subscription order previously submitted by or on behalf of the party making the participation nomination in any auction during 2004 has been satisfied (in whole or in part);
 - (ab) the party making the participation nomination has not had a participation nomination or a second nomination made in his favour under a permitted bilateral arrangement made during 2004;
 - (ac) no tender order previously submitted by or on behalf of the nominee in any auction during 2004 has been satisfied (in whole or in part); and
 - (ad) the nominee has not previously made during 2004 a participation nomination under a permitted bilateral

arrangement;

- (viii) that, to the extent the proposed arrangement involves the making of a second nomination, the person making the second nomination is entitled to do so under the Second Nomination Byelaw and, in particular, paragraph 2(5) of that byelaw;
 - (ix) that neither party to the proposed arrangement is in possession of any Relevant Information which has not been made publicly available; and
 - (x) where a party to the proposed arrangement is resident in a jurisdiction other than the United Kingdom, that all local laws (including any applicable securities laws) have been and will be complied with;
- (c) the prospective participation on the syndicate concerned of the person making any participation nomination is not less than the amount of the prospective participation that is subject to the arrangement or, where the party making any participation nomination and any second nomination is doing so on behalf of the estate of someone who has died, the prospective participation on the syndicate concerned of the deceased person would, but for his death, be not less than the amount of the prospective participation that is subject to the arrangement;
- (d) the nominee has complied with his funding obligations under Rule 5(1); and
- (e) where the nominee is a corporate candidate and the prospective participation to which the proposed arrangement relates is, on its own or when taken with each other prospective participation allocated to the corporate candidate pursuant to all bilateral notices previously submitted by or on behalf of that candidate in 2004, more than 3% of the Relevant Capacity, the consent of the managing agent of the syndicate concerned has been given by that managing agent completing, signing and submitting to the Auction Official Part I of Form C to the Auction Rules.

3(3) For the purposes of Rule 3(2)(a) -

- (a) an arrangement made in respect of prospective participations through a single MAPA shall be treated as a single arrangement and the respective amounts of those prospective participations shall be aggregated in determining whether the condition specified in that Rule is fulfilled;
- (b) save where one party to the arrangement is a connected company of the

managing agent of the syndicate concerned, an arrangement made by a members' agent on behalf of members for whom it acts as such in respect of the prospective participations of those members shall be treated as a single arrangement and the respective amounts of those participations shall be aggregated in determining whether the condition specified in that Rule is fulfilled;

- (c) the amount of any prospective participation satisfied by a party to the proposed arrangement pursuant to Rule 6 below shall be taken into account in determining whether the condition specified in Rule 3(2)(a) is fulfilled.

- 3(4) Notwithstanding Form BN, the Auction Official may prescribe any form, whether electronic or otherwise, to be used for the submission of any notice or information to the Auction Office for the purposes of this Rule 3.
- 3(5) No later than 9.00am (or such later time as the Auction Official may permit) on the working day after Day Two of an Auction the Auction Official shall cause there to be published electronically in a form prescribed by him, or by such other means as he may agree, particulars of any permitted bilateral arrangement which has been validated, including those particulars submitted under Rule 3(2).

4. **Fees**

- 4(1) A fee of £10 (inclusive of VAT) shall be payable by each party by whom or on whose behalf a bilateral notice is submitted.
- 4(2) An additional fee shall be payable by each party to a permitted bilateral arrangement in respect of each arrangement which is validated. The amount of the fee shall be equal to 0.05% of the amount of prospective participation acquired (in the case of a nominee) or in respect of which any participation nomination and any second nomination is made (in the case of the party making any participation nomination and any second nomination).
- 4(3) A fee of £75 (inclusive of VAT) shall be payable by each party by whom or on whose behalf a withdrawal notice pursuant to Rule 6 is submitted.

5. **Unsatisfied auction orders**

- 5(1) Where a bilateral notice concerns the same syndicate as that specified in any unsatisfied tender orders and the bilateral price specified in that notice exceeds the respective floor limits of those unsatisfied orders -

- (a) subject to the following provisions of this Rule 5, a nominee shall satisfy those tender orders in priority to the prospective participation which is the subject of the proposed arrangement;
- (b) the bilateral notices, if there is more than one, shall be ranked in order of their respective bilateral prices with the notice specifying the highest bilateral price ranking first in order of priority;
- (c) any bilateral notices, if there is more than one, specifying the same bilateral price shall be ranked equally and, subject to Rules 5(1)(d) and 5(1)(e), any orders shall be satisfied pro rata to the amount of the prospective participations specified in the respective notices;
- (d) the unsatisfied tender orders shall be ranked in order of their respective floor limits with the tender order specifying the lowest floor limit ranking first in order of priority;
- (e) any unsatisfied tender orders specifying the same floor limit shall be ranked according to the Relevant Time attributable to those orders with the tender order attributed the earliest Relevant Time being accorded priority;
- (f) the price per £1 of prospective participation to be paid to the tenderer in respect of any tender order satisfied by a nominee shall be an amount equal to:

$$\frac{A}{B}$$

where:

A = the aggregate of the amounts payable by all nominees for prospective participations to which the tender order relates; and

B = the total amount of prospective participations to which the tender order relates which have been satisfied by the nominees.

5(2) Where a bilateral notice concerns the same syndicate as that specified in any unsatisfied subscription orders and the bilateral price specified in that notice is less than the respective subscriber's premium of those unsatisfied subscription orders -

- (a) subject to the following provisions of this Rule 5, a party making a participation nomination and/or second nomination shall satisfy those subscription orders in priority to the prospective participation which is the subject of the proposed arrangement;

- (b) the bilateral notices, if there is more than one, shall be ranked in order of their respective bilateral prices with the notice specifying the highest bilateral price ranking first in order of priority;
 - (c) any bilateral notices, if there is more than one, specifying the same bilateral price shall be ranked equally and, subject to Rules 5(2)(d) and 5(2)(e), any orders shall be satisfied pro rata to the amount of the prospective participations specified in the respective notices;
 - (d) the unsatisfied subscription orders shall be ranked in order of their respective subscriber's premium with the subscription order specifying the highest subscriber's premium ranking first in order of priority;
 - (e) any unsatisfied subscription orders specifying the same subscriber's premium shall be ranked according to the Relevant Time attributable to those orders with the subscription order attributed the earliest Relevant Time being accorded priority;
 - (f) the price to be paid by a subscriber in respect of any subscription order satisfied by a party making a participation nomination and/or a second nomination shall be the subscriber's premium.
- 5(3) For the avoidance of doubt, nothing in this Rule 5 shall oblige or entitle a party to a proposed arrangement to, as the case may be, acquire a prospective participation or make any participation nomination and any second nomination which, in aggregate, is in excess of the amount specified in that party's bilateral notice.
- 5(4) No later than 4.30pm (or such later time as the Auction Official may permit) on Day Two of an auction the Auction Official shall cause there to be published electronically in a form prescribed by him, or by such other means as he may agree, to each party to whom Rules 5(1) and 5(2) apply particulars of any prospective participations allocated in or towards satisfaction of any orders pursuant to this Rule 5.

6. **Withdrawal and revision of notices**

- 6(1) Subject to the following provisions of this Rule 6, no bilateral notice may be withdrawn or altered after it has been submitted.
- 6(2) A bilateral notice may be withdrawn where -
- (a) the amount of the prospective participation which a party to the proposed arrangement may be obliged to, as the case may be, acquire or make any participation nomination and any second nomination in respect of pursuant to

Rule 5, exceeds 15% of the amount of prospective participation specified in the bilateral notice; and

- (b) notice in Form BW is given to the Auction Office by or on behalf of either party to the proposed arrangement of that party's intention to withdraw from the proposed arrangement (a "withdrawal notice") by no later than 4.35pm on Day Two of the relevant auction.
- 6(3) Where a subscription order or a tender order is satisfied in whole or in part by a party to a proposed arrangement pursuant to Rule 5, unless the parties to the proposed arrangement submit a revision notice in accordance with Rule 6(4), the amount of the prospective participation specified in their bilateral notice shall be treated as having been reduced to the extent that that subscription order or tender order has been so satisfied.
- 6(4) Subject to Rules 6(5) and 6(6), where a party to a proposed arrangement has satisfied in whole or in part a subscription order or a tender order pursuant to Rule 5, the parties to the proposed arrangement may submit a notice in Form BR (a "revision notice") revising their bilateral notice by specifying an amount of prospective participation greater than that specified in the bilateral notice.
- 6(5) The amount of prospective participation specified in the revision notice shall not exceed in aggregate the amount specified in the bilateral notice and any amount satisfied pursuant to Rule 5.
- 6(6) A revision notice shall be submitted to the Auction Office by no later than 4.45pm on Day Two of the relevant auction.
- 6(7) In order to give a withdrawal notice or a revision notice in accordance with the requirements of Rule 6(2)(b) and Rule 6(6), the relevant parties shall arrange for duly authorised representatives to be available to the Auction Office (by providing to the Auction Office direct phone and fax lines) between 2pm and 4.30pm on Day Two of the auction. Such notices, in Form BW or Form BR as the case may be, may be faxed by the duly authorised representative to the Auction Office.

7. **Settlement of auction orders**

- 7(1) The Auction Official shall no later than each Statement Date cause there to be issued to each party to a permitted bilateral arrangement who has satisfied any subscription orders or tender orders pursuant to Rule 5 a statement as to the net amount ("the Net Amount") payable or receivable by that party in respect of those orders. The Net Amount ("NA") shall be calculated as follows:

$$NA = U - V - W - X - Y$$

Where:

- U = the amount of all premiums receivable by that party in respect of subscription orders satisfied under Rule 5.
- V = the amount of all premiums payable by that party in respect of tender orders satisfied pursuant to Rule 5.
- W = the fee of £10 due pursuant to Rule 4(1).
- X = the amount of the fee due pursuant to Rule 4(2).
- Y = the amount of the fee, if any, due pursuant to Rule 4(3).

- 7(2) Where the Net Amount is a negative amount, it is referred to below as a Debit Amount and the statement as a Debit Statement and, where it is a positive amount, it is referred to below as a Credit Amount and the statement as a Credit Statement.
- 7(3) Subject to Auction Rule 18(5) which shall apply *mutatis mutandis*, the Auction Official shall cause the Credit Amount payable to each nominee in receipt of a Credit Statement to be credited to the relevant nominee's Auction Funding Account in cleared funds no later than close of business on the Relevant Credit Date.
- 7(4) Subject to Auction Rule 18(5) which shall apply *mutatis mutandis*, the Auction Official shall cause the Credit Amount payable to a party making a participation nomination and/or a second nomination in receipt of a Credit Statement to be credited to such account as that party may specify in cleared funds no later than close of business on the Relevant Credit Date or within 14 days after details of such account are notified to the Auction Official, whichever is the later.
- 7(5) Each party in receipt of a Debit Statement shall cause the Debit Amount to be credited in cleared funds to the Lloyd's Auction Settlement Account no later than close of business on the Relevant Debit Date.
- 7(6) Rules 18(10), 18(11), 18(12), 18(13), 18(14) and 18(15) of the Auction Rules shall apply *mutatis mutandis*.

8. **Nomination**

- 8(1) For the purposes of Clause 11A.3 of any agreement in terms of the standard managing agent's agreement (general) and the standard managing agent's agreement (corporate member), the Auction Official shall be and is hereby nominated by the Council as a person in favour of whom authority may be given to sign nominations on behalf of any member under Clause 11.

- 8(2) For the purposes of paragraph 2(2) of the Second Nomination Byelaw, the Auction Official shall be and is hereby nominated by the Council as a person in favour of whom authority may be given to sign second nominations (within the meaning of that byelaw) on behalf of any person entitled to make such a nomination under that byelaw

9. **Overseas jurisdictions**

- 9(1) No permitted bilateral arrangement may be made by or to a person resident in a prohibited territory.
- 9(2) The Auction Official shall give not less than 15 business days notice of any change in the list of prohibited territories.
- 9(3) For the purposes of this Rule 9, a "prohibited territory" means Singapore and such other territories as may be prescribed as prohibited territories by the Auction Official from time to time.

10. **Restrictions on advertisements**

No underwriting agent, connected company of an underwriting agent, person connected with an underwriting agent, member or any other person involved directly or indirectly (other than in any case a person wishing to make a participation nomination and/or a second nomination) shall issue or cause to be issued any advertisement which relates to a participation nomination and/or a second nomination.

11. **Commencement**

These conditions and requirements shall come into force on 30 June 2004.

CAPACITY AUCTION FAX

BILATERAL NOTICE (by 2.00 pm on Day Two)

Form BN ____/____

To Lloyd's Auction Official:

1. Prospective participation subject to the participation nomination and/or second nomination

Amount of prospective participation:

Syndicate No:

Bilateral price per £ of prospective participation:

Total consideration:

2. Declaration by the Nominator

Name of Nominator:

Issuer No:

Member No:

I/We hereby confirm that no subscription order in respect of the above syndicate previously submitted by me/us or on my/our behalf in any auction this year has been satisfied (in whole or in part) and that no participation nomination or second nomination in respect of the above syndicate has been made in my/our favour under a permitted bilateral arrangement this year.

I/We hereby confirm that, in respect of any second nomination being made by me/us, I/we are entitled to make such nomination under the Second Nomination Byelaw (as defined in the Auction Rules 2004) and, in particular, paragraph 2(5) of that byelaw.

Nominator Signatory

Date

3. Declaration by the Nominee

Name of Nominee:

Issuer No:

Member No:

I/We hereby confirm that I/we have not disposed of any prospective participation on the above syndicate in a previous auction this year or under a permitted bilateral arrangement this year.

We confirm that the consent referred to in rule 3(2)(e) of the Bilateral Arrangements (2004) has been given by the relevant managing agent.*

* delete if not applicable

Nominee Signatory

Date

4. Declaration by the Nominator and the Nominee

We each severally hereby certify that:

- a) the only consideration for any participation nomination and any second nomination is cash;
- b) we are not in possession of any Relevant Information (as defined in the Auction Rules 2004) which has not been made publicly available; and
- c) in respect of the proposed arrangement referred to in this notice, all local laws (including any applicable securities laws) have been and will be complied with.*

* delete if both/all parties are resident in the United Kingdom

Nominator Signatory/Date

Nominee Signatory/Date

5. Contact

The person to whom all queries/information in respect of this Notice should be addressed to

Contact Name:

Phone No:

Market Mail address:

Fax No:

For Auction Office use only

Validation Successful (Yes/No)

Fax confirmation to Contact Name

Form BN/BTG____/____

1. As advised on the Bilateral Notice

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(AUCTION OFFICE USE ONLY)

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Fax confirmation to Contact name

CAPACITY AUCTION FAX
BILATERAL NOMINEE GROUP DATA

Form BN/BSG____/____

To Lloyd's Auction Official:

1. As advised on the Bilateral Notice

Amount of prospective participation:

Bilateral price per £ of prospective participation:

Syndicate No:

Total consideration:

	<u>Member No</u>	<u>Prospective Participation</u>	(AUCTION OFFICE USE ONLY)
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Contact Name:

Market Mail address:

Phone No:

Fax No:

For Auction Office use only

Validation Successful (Yes/No)

Fax confirmation to Contact name

CAPACITY AUCTION FAX

Form BW____/____

BILATERAL WITHDRAWAL NOTICE (by 4.35pm on Day Two)

To Lloyd's Auction Official:

1. As advised on the Bilateral Notice

Amount of prospective participation:

Bilateral price per £ of prospective participation:

Syndicate No:

Total consideration:

2. Declaration by the Nominator

Name of Nominator:

--

Issuer No:

Member No:

I/We hereby wish to withdraw from the above bilateral arrangement.

AND/OR

3. Declaration by the Nominee

Name of Nominee:

--

Issuer No:

Member No:

I/We hereby wish to withdraw from the above bilateral arrangement.

4. Contact

As advised in the Bilateral Notice

Contact Name:

Market Mail address:

Phone No:

Fax No:

For Auction Office use only

Validation Successful (Yes/No)

Fax confirmation to Contact name

CAPACITY AUCTION FAX

Form BR____/____

BILATERAL REVISION NOTICE (by 4.45pm on Day Two)

To Lloyd's Auction Official:

1. As advised on the Bilateral Notice

Amount of prospective participation:

Bilateral price per £ of prospective participation:

Syndicate No:

Total consideration:

2. Declaration by the Nominator

Name of Nominator:

--

Issuer No:

Member No:

I/We hereby wish to revise the amount of prospective participation to be transferred in the above bilateral arrangement to

--

(Revised amount of prospective participation)

Nominator Signatory

Date

3. Declaration by the Nominee

Name of Nominee:

--

Issuer No:

Member No:

I/We hereby wish to revise the amount of prospective participation to be transferred in the above bilateral arrangement to that stated above.

Nominee Signatory

Date

4. Contact

As advised in the Bilateral Notice

Contact Name:

Market Mail address:

Phone No:

Fax No:

For Auction Office use only

Validation Successful (Yes/No)

Fax confirmation to Contact name